Supreme Court of the United States

No. 73-5772

ANTHONY PASQUALL FARETTA,

Petitioner,

—v.—

CALIFORNIA

ON WRIT OF CERTIORARI TO THE COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT

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SUPERIOR COURT OF THE
STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

No. A-012485

THE PEOPLE OF THE STATE OF CALIFORNIA, PLAINTIFF

v.

ANTHONY PASQUALL FARETTA, DEFENDANT

INFORMATION

GRAND THEFT (Sec. 487, Subd. 3, P.C.)

The said ANTHONY PASQUALL FARETTA is accused by the District Attorney of and for the County of Los Angeles, State of California, by this information, of the crime of GRAND THEFT, in violation of Section 487, Subdivision 3, Penal Code, a felony, committed as follows: That the said ANTHONY PASQUALL FARETTA between May 21, 1972, and May 22, 1972, at and in the County of Los Angeles, State of California, did willfully, unlawfully and feloniously take a certain motor vehicle, to wit, an automobile, then and there the personal property of Dean H. Telford.

JOSEPH P. BUSCH
District Attorney
for the County of Los Angeles,
State of California

By /s/ Ted Sten
TED STEN
Deputy

[Filed in open Superior Court of the State of California, County of Los Angeles, on motion of the District Attorney of said County. Dated: June 21, 1972, William G. Sharp, Clerk, By I. M. Ayers, Deputy]

SUPERIOR COURT OF THE
STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

No. A 012485

PEOPLE OF THE STATE OF CALIFORNIA, PLAINTIFF

v.

ANTHONY PASQUALL FARETTA, DEFENDANT

AMENDMENT TO INFORMATION

4 PRIOR CONVICTION(S)

That before the commission of the offense hereinbefore set forth in this information, said defendant, ANTHONY PASQUALL FARETTA, under the name of Lawrence Ricchio, was on or about the 10th day of June, 1965, in the Superior Court of the State of California, for the County of Los Angeles, convicted of the crime of VIOLATION OF SECTION 459, Penal Code, 2 counts, a felony. (SC# 304935)

That before the commission of the offense hereinbefore set forth in this information, said defendant, ANTHONY PASQUALL FARETTA, under the name of Lawrence E. Ricchio, was on or about the 30th day of November, 1965, in the Superior Court of the State of California, for the County of Los Angeles, convicted of the crime of VIOLATION OF SECTION 11530, Health and Safety Code, a felony. (SC# 309489)

That before the commission of the offense hereinbefore set forth in this information, said defendant, ANTHONY PASQUALL FARETTA, under the name of Anthony P. Faretta, was on or about the 5th day of May, 1967, in the Superior Court of the State of California, for the County of Orange, convicted of the crime of VIOLATION OF SECTION 11530, Health and Safety Code, a felony.

That before the commission of the offense hereinbefore set forth in this information, said defendant, ANTHONY PASQUALL FARETTA, under the name of Anthony P. Faretta, was in the Superior Court of the State of California, for the County of Los Angeles, convicted of the crimes of VIOLATION OF SECTIONS 487.3, Penal Code, and 10851, Vehicle Code, felonies, and the judgment of said court against said defendant in said connection was on or about the 25th day of March, 1970, pronounced and rendered. (SC# A006595)

TR 8-2-72 "J"

7/27sk

[Filed Aug. 2, 1972, William G. Sharp, County Clerk, By S. F. Perkiss, Deputy]

DEPT. SGJ

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: JUNE 21 1972 — HONORABLE: ~~CARROLL P. CURRUM~~ ~~G. SUTTON~~ Edmund M. Beam JUDGE — Deputy Sheriff: J. M. Cuevas / D. Mendez — ~~S. F. PERKISS~~ ~~S. UGREN~~ Deputy Clerk / Reporter — ~~103~~/102 — (Parties and counsel checked if present)

CASE NO. A A0124E5

PEOPLE OF THE STATE OF CALIFORNIA
VS
G1 FARETTA ANTHONY PASQUALE
487.3 GICIS

CHARGE

Counsel for Plaintiff: JOSEPH P. BUSCH JR., DISTRICT ATTY. By R. Berger DEPUTY

Counsel for Defendant: E. A. Beam, Jr. / A. Lieman P.D.

NATURE OF PROCEEDINGS ARR GT

1 ☐ _____ SWORN TO INTERPRET _____

2 ☐ DEFENDANT IS ADVISED OF HIS **CONSTITUTIONAL RIGHTS.**

3 ☒ PUBLIC DEFENDER IS APPOINTED ☐ ARRAIGNMENT/PLEA CONTINUED TO _____ AT _____ A.M. IN THIS DEPARTMENT

4 ☐ ON MOTION OF DEFENDANT PUBLIC DEFENDER RELIEVED. _____ SUBSTITUTED AS ATTORNEY OF RECORD FOR DEFENDANT.

5 ☐ **DUE TO CONFLICT OF INTERESTS,** PUBLIC DEFENDER RELIEVED. PURSUANT TO SECT. 987.2 PENAL CODE _____ APPOINTED TO REPRESENT DEFENDANT.

6 ☐ DEFENDANT'S MOTION TO APPEAR IN PROPRIA PERSONNA GRANTED/DENIED.

7 ☐ ON DEFENDANT'S MOTION, ARRAIGNMENT/PLEA CONTINUED TO _____ FOR _____

8 ☐ **ARRAIGNED.** DEFENDANT'S MOTION UNDER SECT 995 & 1538.5 PENAL CODE SET IN DEPT _____ **ON** _____ AT _____ A.M.

9 ☐ MOTION UNDER 995 & 1538.5 PENAL CODE GRANTED/DENIED

10 ☒ ARRAIGNED. **PLEADS NOT GUILTY.** ~~ADMITS/DENIES PRIORS.~~

11 ☐ ARRAIGNED. PLEADS NOT GUILTY AND **NOT GUILTY BY REASON OF INSANITY.** DRS _____ AND _____ APPOINTED UNDER SECT 1027 PENAL CODE.

12 ☐ ON DEFENDANT'S MOTION, PURSUANT SECT 730 EVIDENCE CODE, DR. _____ AND DR. _____ APPOINTED TO EXAMINE DEFENDANT/AND TO PREPARE CONFIDENTIAL REPORT FOR DEFENDANT UNDER SECT. 1017 EVIDENCE CODE.

13 ☒ **TRIAL**/~~MOTION 1538.5 PENAL CODE~~/SET ON 7-3-72 IN DEPT SO J AT 9:00 A.M.

14 ☐ DEFENDANT PERSONALLY AND ALL COUNSEL **WAIVE TRIAL BY JURY.** COURT ACCEPTS WAIVER

15 ☐ DEFENDANT PERSONALLY AND ALL COUNSEL **WAIVE TIME FOR TRIAL.**

16 ☐ ON MOTION OF THE PEOPLE AMENDED INFORMATION/INDICTMENT FILED ALLEGING _____ PRIORS.

17 ☐ REARRAIGNED. DEFENDANT ADMITS/DENIES PRIORS.

18 ☐ ON PEOPLE'S MOTION, INFORMATION/INDICTMENT AMENDED BY INTERLINEATION TO SHOW **TRUE NAME** AS _____ CHARGED AS _____

19 ☐ DEFENDANT PERSONALLY **WITHDRAWS PLEA** OF NOT GUILTY.

20 ☐ ARRAIGNED. PLEADS GUILTY/NOLO CONTENDERE, WITH CONSENT OF DISTRICT ATTORNEY AND APPROVAL OF COURT, AS CHARGED TO COUNTS _____ DEFENDANT WAIVES TIME FOR SENTENCE. REFERRED TO PROBATION DEPARTMENT. FURTHER PROCEEDINGS, DISPOSITION OF COUNTS _____ ISSUE OF TRUTH OR FALSITY OF PRIORS, CONTINUED TO _____ IN DEPT. _____ AT _____ A.M.

21 ☐ DEFENDANT WAIVES PROBATION REFERRAL. **REQUESTS IMMEDIATE SENTENCE.**
(SEE SENTENCE BELOW/SEE ATTACHED SHEET)

22 ☐ DEFENDANT FAILS TO APPEAR **BAIL FORFEITED/O.R. REVOKED.** BENCH WARRANT ISSUED. NO BAIL/BAIL FIXED IN SUM OF $_____ PLUS PENALTY ASSESSMENT.

23 ☐ BENCH WARRANT **ORDERED HELD** TO _____

24 ☐ DEFENDANT APPEARING, BENCH WARRANT ORDERED RECALLED/QUASHED. ORDER OF _____ FORFEITING BAIL VACATED. BAIL REINSTATED UPON FILING OF REASSUMPTION AND PAYMENT OF $_____ COSTS WITHIN _____ DAYS

25 ☒ DEFENDANT'S MOTION FOR **REDUCTION OF BAIL** IS ~~GRANTED~~/DENIED. ~~BAIL SET AT $_____~~ PLUS PENALTY ASSESSMENT.

26 ☐ DEFENDANT'S MOTION FOR RELEASE ON **OWN RECOGNIZANCE** GRANTED/DENIED

27 ☐ DEFENDANT'S MOTION TO BE REINSTATED ON BAIL/OWN RECOGNIZANCE GRANTED/DENIED

28 ☐ **FURTHER ORDER** AS FOLLOWS

Atty's Petn to represent himself in Pro Per
set for hearing 6-22-72, 9am SOJ

ENTERED
WILLIAM G SHARP, County Clerk

29 ☐ RELEASED ON OWN RECOGNIZANCE 30 ☐ BAIL 31 ☒ REMANDED 32 ☐ DISCHARGED
33 ☐ BAIL EXONERATED 34 ☐ RELEASED

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPT. S-J

Date: June 22, 1972 ~~1971~~
HONORABLE BEACH VASEY ~~C WENDELL~~ Branch M. Brain JUDGE
904 J. Lewis Deputy Sheriff
B SCHAUMEKER J. M. Reyes Deputy Clerk
M. Reyes Reporter
(Parties and counsel checked if present)

A012485
PEOPLE OF THE STATE OF CALIFORNIA
VS
01 FARETTA ANTHONY PASQUALL
CHARGE 487.3 01 Ct

Counsel for Plaintiff: EVELLE J. YOUNGER, DISTRICT ATTY.
Counsel for Defendant: By R. Berger DEPUTY
A LIEMAN PD
Pro Per

NATURE OF PROCEEDINGS: Defts Petn to represent himself in Pro Per

1 ☐ _____ SWORN TO INTERPRET.
2 ☐ DEFENDANT IS ADVISED OF HIS CONSTITUTIONAL RIGHTS.
3 ☐ PUBLIC DEFENDER IS APPOINTED. ☐ ARRAIGNED AND PLEA CONTINUED TO _____ AT _____ A.M. IN THIS DEPARTMENT.
4 ☒ ON MOTION OF DEFENDANT PUBLIC DEFENDER RELIEVED, _____ SUBSTITUTED AS ATTORNEY OF RECORD FOR DEFENDANT.
5 ☐ DUE TO CONFLICT OF INTERESTS, PUBLIC DEFENDER RELIEVED UNDER SECT. 987A PENAL CODE _____ APPOINTED TO REPRESENT DEFENDANT.
6 ☒ DEFENDANT'S MOTION TO APPEAR IN PROPRIA PERSONNA GRANTED/~~DENIED~~.

7 ☐ ON DEFENDANT'S MOTION, ARRAIGNMENT/PLEA CONTINUED TO _____ FOR _____
8 ☐ ARRAIGNED. DEFENDANT'S MOTION UNDER SECT 995 & 1538.5 PENAL CODE SET IN DEPT. _____ ON _____ AT _____ A.M.
9 ☐ MOTION UNDER 995 & 1538.5 PENAL CODE GRANTED/DENIED.
10 ☐ ARRAIGNED. PLEADS NOT GUILTY. ADMITS/DENIES PRIORS.
11 ☐ ARRAIGNED. PLEADS NOT GUILTY AND NOT GUILTY BY REASON OF INSANITY. DRS. _____ AND _____ APPOINTED UNDER SECT 1027 PENAL CODE.

12 ☐ ON DEFENDANT'S MOTION, UNDER SECT 730 EVIDENCE CODE, DR. _____ AND DR. _____ APPOINTED TO EXAMINE DEFENDANT/AND TO PREPARE CONFIDENTIAL REPORT FOR DEFENDANT UNDER SECT 1017 PENAL CODE.
13 ☐ TRIAL/MOTION 1538.5 PENAL CODE/SET ON _____ IN DEPT. _____ AT _____ A.M.
14 ☐ DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY. COURT ACCEPTS WAIVER.
15 ☐ DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TIME FOR TRIAL.

16 ☐ ON MOTION OF THE PEOPLE AMENDED INFORMATION/INDICTMENT FILED ALLEGING _____ PRIORS.
17 ☐ REARRAIGNED. DEFENDANT ADMITS/DENIES PRIORS.
18 ☐ ON PEOPLE'S MOTION, INFORMATION/INDICTMENT AMENDED BY INTERLINEATION TO SHOW TRUE NAME AS _____ CHARGED AS _____
19 ☐ DEFENDANT PERSONALLY WITHDRAWS PLEA OF NOT GUILTY.

20 ☐ ARRAIGNED. PLEADS GUILTY/NOLO CONTENDERE, WITH CONSENT OF DISTRICT ATTORNEY AND APPROVAL OF COURT, AS CHARGED TO COUNTS _____ DEFENDANT WAIVES TIME FOR SENTENCE. REFERRED TO PROBATION DEPARTMENT. FURTHER PROCEEDINGS, DISPOSITION OF COUNTS _____, ISSUE OF TRUTH OR FALSITY OF PRIORS, CONTINUED TO _____ IN DEPT. _____ AT _____ A.M.
21 ☐ DEFENDANT WAIVES PROBATION REFERRAL. REQUESTS IMMEDIATE SENTENCE.
(SEE SENTENCE BELOW/SEE ATTACHED SHEET)

22 ☐ DEFENDANT FAILS TO APPEAR. BAIL FORFEITED/O.R. REVOKED. BENCH WARRANT ISSUED. NO BAIL/BAIL FIXED IN SUM OF $ _____ PLUS PENALTY ASSESSMENT.
23 ☐ BENCH WARRANT ORDERED HELD TO _____
24 ☐ DEFENDANT APPEARING, BENCH WARRANT ORDERED RECALLED/QUASHED. ORDER OF FORFEITING BAIL VACATED, BAIL REINSTATED UPON FILING OF REASSUMPTION AND PAYMENT OF $ _____ COSTS WITHIN _____ DAYS.

25 ☒ DEFENDANT'S MOTION FOR REDUCTION OF BAIL IS ~~GRANTED~~/DENIED. ~~BAIL SET AT $~~ _____ PLUS PENALTY ASSESSMENT.
26 ☐ DEFENDANT'S MOTION FOR RELEASE ON OWN RECOGNIZANCE GRANTED/DENIED.
27 ☐ DEFENDANT'S MOTION TO BE REINSTATED ON BAIL/OWN RECOGNIZANCE GRANTED/DENIED.
28 ☒ FURTHER ORDER AS FOLLOWS:

The Court inquires of the dft as to his ability to represent himself in this case and the matter is submitted.
Later: Court finds dft has the ability to represent himself and grants the Petition. Dft is required to notice all motions 10 days in advance of hearing and serve a copy on the District Attorney. Dft advised that all Pre-Trial motions must be noticed for hearing at least 10 days prior to trial.
Petition filed. Dft granted Faretta Per. privileges.

29 ☐ RELEASED ON OWN RECOGNIZANCE 30 ☐ BAIL 31 ☐ REMANDED 32 ☐ BAIL EXONERATED
33 ☐ RELEASED

76C777 1/70

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES DEPT. SoJ

Date: June 29 1972 HONORABLE ~~GARROLL H DUNNUH~~ Edward M. Bean JUDGE
606 ~~FIKE~~ J. Senn Deputy Sheriff
~~S E PERKISS~~ L. M. Ayres ~~S-BAREN~~ V. Meuser Deputy Clerk, Reporter
(Parties and counsel checked if present)

CASE NO. A012485
PEOPLE OF THE STATE OF CALIFORNIA
VS
01 FARETTA ANTHONY PASQUALL
CHARGE 487,3 01 Ct

Counsel for Plaintiff: JOSEPH P. BUSCH, JR., DISTRICT ATTY.
Counsel for Defendant: BY R Berger DEPUTY
PRO PER

NATURE OF PROCEEDINGS: TRIAL, Advanced from 8-2-72 (BOX CHECKED IF ORDER APPLICABLE)

67 ☐ ..... SWORN TO INTERPRET.....

68 ☐ BY STIPULATION OF DEFENDANT AND ALL COUNSEL, MOTION UNDER SECT. 1538.5 PENAL CODE IS SUBMITTED ON THE TESTIMONY CONTAINED IN THE TRANSCRIPT OF THE PROCEEDINGS HAD AT THE PRELIMINARY HEARING, SUBJECT TO THIS COURT'S RULINGS, WITH EACH SIDE RESERVING THE RIGHT TO OFFER ADDITIONAL EVIDENCE AND ALL STIPULATIONS ENTERED INTO AT THE PRELIMINARY HEARING BE DEEMED ENTERED INTO IN THESE PROCEEDINGS. IT IS FURTHER STIPULATED THAT ALL EXHIBITS RECEIVED AT THE PRELIMINARY HEARING ARE DEEMED RECEIVED IN EVIDENCE IN THESE PROCEEDINGS, SUBJECT TO THIS COURT'S RULINGS. THE DEFENDANT PERSONALLY WAIVES HIS RIGHT TO CONFRONTATION OF WITNESSES FOR THE PURPOSE OF FURTHER CROSS-EXAMINATION.

69 ☐ THE COURT STATES IT HAS READ AND CONSIDERED THE TRANSCRIPT OF THE PRELIMINARY HEARING.
..... SWORN AND TESTIF..... FOR THE PEOPLE
..... SWORN AND TESTIF..... FOR THE DEFENDANT.

70 ☐ FOLLOWING EXHIBITS ADMITTED INTO EVIDENCE:.....

71 ☐ MOTION OF DEFENDANT UNDER SECT 995 & 1538.5 PENAL CODE GRANTED/DENIED/CONTINUED TO .....

72 ☐ ON COURT'S OWN MOTION, DUE TO CONGESTED CALENDAR, CAUSE **TRAILED/CONTINUED** TO..... AT..... A.M.

73 ☐ ON MOTION OF PEOPLE DEFENDANT TRIAL IS CONTINUED TO..... AT..... AM FOR/TO .....

74 ☐ FOLLOWING WITNESSES INSTRUCTED TO RETURN ON ABOVE DATE WITHOUT FURTHER ORDER, NOTICE OR SUBPOENA .....

75 ☐ THE DEFENDANT PERSONALLY AND ALL COUNSEL **WAIVE TRIAL BY JURY/TIME FOR TRIAL.**

76 ☐ ON MOTION OF THE PEOPLE, AMENDED INFORMATION/INDICTMENT FILED ALLEGING..... PRIORS.

77 ☐ **REARRAIGNED.** DEFENDANT ADMITS DENIES PRIORS.

78 ☐ ON MOTION OF THE PEOPLE, INFORMATION/INDICTMENT AMENDED BY INTERLINEATION TO SHOW .....

79 ☐ ON MOTION OF THE PEOPLE, CASE NO. ..... CONSOLIDATED WITH CASE NO. ..... AS COUNTS ..... THEREOF.

80 ☐ DEFENDANT PERSONALLY **WITHDRAWS PLEA** OF NOT GUILTY AS TO COUNTS ....., IS **REARRAIGNED** AND PLEADS GUILTY NOLO CONTENDERE (WITH THE CONSENT OF THE DISTRICT ATTORNEY AND THE COURT) AS CHARGED TO..... ☐ A LESSER AND NECESSARILY INCLUDED OFFENSE.

81 ☐ DEFENDANT FAILS TO APPEAR. **BAIL FORFEITED/O.R. REVOKED.** BENCH WARRANT ISSUED. NO BAIL BAIL FIXED IN THE SUM OF $ ..... PLUS PENALTY ASSESSMENT.

82 ☐ BENCH WARRANT **ORDERED HELD** UNTIL .....

83 ☐ DEFENDANT APPEARING, BENCH WARRANT ORDERED RECALLED QUASHED. ORDER OF ..... FORFEITING BAIL VACATED AND BAIL REINSTATED ON FILING REASSUMPTION AND PAYMENT OF $ ..... COSTS BEFORE.....

84 ☐ CAUSE CALLED FOR **TRIAL.**

85 ☐ BY STIPULATION OF DEFENDANT AND ALL COUNSEL, CAUSE IS SUBMITTED ON THE TESTIMONY CONTAINED IN THE TRANSCRIPT OF THE PROCEEDINGS HAD AT THE PRELIMINARY HEARING, SUBJECT TO THIS COURT'S RULINGS, WITH EACH SIDE RESERVING THE RIGHT TO OFFER ADDITIONAL EVIDENCE, AND ALL STIPULATIONS ENTERED INTO AT THE PRELIMINARY HEARING BE DEEMED ENTERED INTO IN THESE PROCEEDINGS. IT IS FURTHER STIPULATED THAT ALL EXHIBITS RECEIVED AT THE PRELIMINARY HEARING ARE DEEMED RECEIVED IN EVIDENCE IN THESE PROCEEDINGS, SUBJECT TO THIS COURT'S RULINGS. THE DEFENDANT PERSONALLY WAIVES HIS RIGHT TO CONFRONTATION OF WITNESSES FOR THE PURPOSE OF FURTHER CROSS-EXAMINATION.

86 ☐ THE COURT STATES IT HAS READ AND CONSIDERED THE TRANSCRIPT OF THE PRELIMINARY HEARING.

87 ☐ ..... SWORN AND TESTIF..... FOR THE PEOPLE.

88 ☐ ..... SWORN AND TESTIF..... FOR THE DEFENDANT.

89 ☐ FOLLOWING EXHIBITS ADMITTED INTO EVIDENCE .....

90 ☐ THE COURT FINDS THE DEFENDANT NOT GUILTY ..... GUILTY AS CHARGED TO ..... ☐ A LESSER AND NECESSARILY INCLUDED OFFENSE.

91 ☐ DEFENDANT WAIVES TIME FOR SENTENCE. REFERRED TO PROBATION DEPARTMENT AND FURTHER PROCEEDINGS, DISPOSITION OF COUNTS ....., DETERMINATION OF PRIORS AND DEGREE CONTINUED TO ..... IN DEPT ..... AT ..... AM.

92 ☐ DEFENDANT WAIVES PROBATION REFERRAL. **REQUESTS IMMEDIATE SENTENCE.** SENTENCED AS SHOWN BELOW ON ATTACHED SHEET.

93 ☒ **FURTHER ORDER** AS FOLLOWS:

Cause advanced to this date for the purpose of deft conferring with the Distrist Attorney. Deft makes oral motion and Court advises deft to present written, noticed motions. Trial date of 8-2-72 to stand.

THIS MINUTE ORDER WAS ENTERED June 29, 1972 WILLIAM G. SHARP, COUNTY CLERK

94 ☐ RELEASED ON OWN RECOGNIZANCE 95 ☐ BAIL 96 ☒ REMANDED 97 ☐ BAIL EXONERATED
98 ☐ RELEASED

78C778-12/70

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES DEPT. SO J

Date: JULY 6 1972 ELSWORTH M BEAM

HONORABLE: [illegible] JUDGE | S/A/PEARLES/ I M AYERS Deputy Clerk

[illegible] Deputy Sheriff | /S/AGREAN (NONE) Reporter

(Parties and counsel checked if present)

CASE NO. A012485

PEOPLE OF THE STATE OF CALIFORNIA Counsel for Plaintiff JOSEPH P. BUSCH, JR., DISTRICT ATTY.

VS BY DEPUTY

Counsel for Defendant

01 FARETTA ANTHONY PASQUALL IN PROPRIA PERSONA

CHARGE 487.3 01 Ct

NATURE OF PROCEEDINGS ExParte request to interview witness/held in County Jail (BOX CHECKED IF ORDER APPLICABLE)

67 ☐ .....SWORN TO INTERPRET.....

68 ☐ BY STIPULATION OF DEFENDANT AND ALL COUNSEL, MOTION UNDER SECT. 1538.5 PENAL CODE IS SUBMITTED ON THE TESTIMONY CONTAINED IN THE TRANSCRIPT OF THE PROCEEDINGS HAD AT THE PRELIMINARY HEARING, SUBJECT TO THIS COURT'S RULINGS, WITH EACH SIDE RESERVING THE RIGHT TO OFFER ADDITIONAL EVIDENCE AND ALL STIPULATIONS ENTERED INTO AT THE PRELIMINARY HEARING BE DEEMED ENTERED INTO IN THESE PROCEEDINGS. IT IS FURTHER STIPULATED THAT ALL EXHIBITS RECEIVED AT THE PRELIMINARY HEARING ARE DEEMED RECEIVED IN EVIDENCE IN THESE PROCEEDINGS, SUBJECT TO THIS COURT'S RULINGS. THE DEFENDANT PERSONALLY WAIVES HIS RIGHT TO CONFRONTATION OF WITNESSES FOR THE PURPOSE OF FURTHER CROSS-EXAMINATION.

69 ☐ THE COURT STATES IT HAS READ AND CONSIDERED THE TRANSCRIPT OF THE PRELIMINARY HEARING.
.....SWORN AND TESTIF.....FOR THE PEOPLE
.....SWORN AND TESTIF.....FOR THE DEFENDANT.

70 ☐ FOLLOWING EXHIBITS ADMITTED INTO EVIDENCE: .....

71 ☐ MOTION OF DEFENDANT UNDER SECT 995 & 1538.5 PENAL CODE GRANTED/DENIED/CONTINUED TO .....

72 ☐ ON COURT'S OWN MOTION, DUE TO CONGESTED CALENDAR, CAUSE **TRAILED/CONTINUED** TO.....
.....AT..... A.M.

73 ☐ ON MOTION OF PEOPLE/DEFENDANT TRIAL IS CONTINUED TO.....AT..... .....AM FOR/TO .....

74 ☐ FOLLOWING WITNESSES INSTRUCTED TO RETURN ON ABOVE DATE WITHOUT FURTHER ORDER, NOTICE OR SUBPOENA .....

75 ☐ THE DEFENDANT PERSONALLY AND ALL COUNSEL **WAIVE TRIAL BY JURY/TIME FOR TRIAL.**

76 ☐ ON MOTION OF THE PEOPLE, AMENDED INFORMATION/INDICTMENT FILED ALLEGING.....PRIORS.

77 ☐ **REARRAIGNED.** DEFENDANT ADMITS DENIES PRIORS.

78 ☐ ON MOTION OF THE PEOPLE, INFORMATION/INDICTMENT AMENDED BY INTERLINEATION TO SHOW .....

79 ☐ ON MOTION OF THE PEOPLE, CASE NO..... CONSOLIDATED WITH CASE NO. ..... AS COUNTS ..... THEREOF.

80 ☐ DEFENDANT PERSONALLY **WITHDRAWS PLEA** OF NOT GUILTY AS TO COUNTS ....., IS **REARRAIGNED** AND PLEADS GUILTY NOLO CONTENDERE (WITH THE CONSENT OF THE DISTRICT ATTORNEY AND THE COURT) AS CHARGED TO.....
.....☐ A LESSER AND NECESSARILY INCLUDED OFFENSE.

81 ☐ DEFENDANT FAILS TO APPEAR. **BAIL FORFEITED/O.R. REVOKED.** BENCH WARRANT ISSUED. NO BAIL/BAIL FIXED IN THE SUM OF $.....PLUS PENALTY ASSESSMENT.

82 ☐ BENCH WARRANT **ORDERED HELD** UNTIL .....

83 ☐ DEFENDANT APPEARING, BENCH WARRANT ORDERED RECALLED/QUASHED. ORDER OF .....FORFEITING BAIL VACATED AND BAIL REINSTATED ON FILING REASSUMPTION AND PAYMENT OF $.....COSTS BEFORE .....

84 ☐ CAUSE CALLED FOR TRIAL.

85 ☐ BY STIPULATION OF DEFENDANT AND ALL COUNSEL, CAUSE IS SUBMITTED ON THE TESTIMONY CONTAINED IN THE TRANSCRIPT OF THE PROCEEDINGS HAD AT THE PRELIMINARY HEARING, SUBJECT TO THIS COURT'S RULINGS, WITH EACH SIDE RESERVING THE RIGHT TO OFFER ADDITIONAL EVIDENCE, AND ALL STIPULATIONS ENTERED INTO AT THE PRELIMINARY HEARING BE DEEMED ENTERED INTO IN THESE PROCEEDINGS. IT IS FURTHER STIPULATED THAT ALL EXHIBITS RECEIVED AT THE PRELIMINARY HEARING ARE DEEMED RECEIVED IN EVIDENCE IN THESE PROCEEDINGS, SUBJECT TO THIS COURT'S RULINGS. THE DEFENDANT PERSONALLY WAIVES HIS RIGHT TO CONFRONTATION OF WITNESSES FOR THE PURPOSE OF FURTHER CROSS-EXAMINATION

86 ☐ THE COURT STATES IT HAS READ AND CONSIDERED THE TRANSCRIPT OF THE PRELIMINARY HEARING.

87 ☐ .....SWORN AND TESTIF.....FOR THE PEOPLE.

88 ☐ .....SWORN AND TESTIF.....FOR THE DEFENDANT.

89 ☐ FOLLOWING EXHIBITS ADMITTED INTO EVIDENCE .....

90 ☐ THE COURT FINDS THE DEFENDANT NOT GUILTY .....GUILTY AS CHARGED TO .....☐ A LESSER AND NECESSARILY INCLUDED OFFENSE.

91 ☐ DEFENDANT WAIVES TIME FOR SENTENCE. REFERRED TO PROBATION DEPARTMENT AND FURTHER PROCEEDINGS, DISPOSITION OF COUNTS....., DETERMINATION OF PRIORS AND DEGREE CONTINUED TO ..... IN DEPT ..... AT ..... AM.

92 ☐ DEFENDANT WAIVES PROBATION REFERRAL. **REQUESTS IMMEDIATE SENTENCE.** SENTENCED AS SHOWN BELOW/ON ATTACHED SHEET.

93 ☒ **FURTHER ORDER** AS FOLLOWS

Defts request for interview of witness is granted.
The Sheriff's Dept is ordered to transport Charles Ray Kinningham, Booking #2019396, Wayside Honor Rancho, to Central Jail on July 14 1972, for the purpose of interview by this deft.
Copy of above order delivered to Sheriff's Dept this date.
A copy of this order is sent to Deft by U.S. Mail on this date [illegible] addressed as follows: Anthony Paswuall Faretta, 1992-490 2500, 441 Bauchet Street, Los Angeles, Ca 90012.

THIS MINUTE ORDER WAS ENTERED 7-6-72 WILLIAM G. SHARP, COUNTY CLERK

94 ☐ RELEASED ON OWN RECOGNIZANCE 95 ☐ BAIL 96 ☐ REMANDED 97 ☐ BAIL EXONERATED
98 ☐ RELEASED

4 MISC.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: July 13, 1972 | DEPT. SOJ+

HONORABLE: Edward M. Bean | JUDGE | A. M. Ayers | Deputy Clerk

Deputy Sheriff: J. Lewis | R. Meuda | Reporter

CASE NO. A 012485 (Parties and counsel checked if present)

PEOPLE OF THE STATE OF CALIFORNIA VS

01 Faretta, Anthony Pasquale

Counsel for People: Joseph P Busch Jr District Atty

DEPUTY DISTRICT ATTY: George Zeigomich

Counsel for Defendant: Pro Per

Arnold Lieman, PD

MINUTES ENTERED 7-13-72

CHARGE 487.3 o/ct

NATURE OF PROCEEDINGS Revision of Pro Per Status

(BOX CHECKED IF ORDER APPLICABLE)

101 ☐ .....

102 ☒ — PUBLIC DEFENDER APPOINTED. ~~O.P.D.~~ ~~BEING PRESENT.~~

103 ☐ ON MOTION OF DEFENDANT ..... RELIEVED, AND ..... IS SUBSTITUTED AS ATTORNEY OF RECORD.

104 ☐ — ON ..... MOTION, FURTHER PROCEEDINGS CONTINUED TO ..... AT ..... A.M. IN DEPT. ..... ☐ NON-APPEARANCE CALENDAR

105 ☐ SUPPLEMENTAL PROBATION REPORT IS ORDERED.

106 ☐ — DEFENDANT IS FOUND TO BE / NOT TO BE IN VIOLATION OF PROBATION.

107 ☐ PROBATION IS REVOKED / REMAINS REVOKED. SENTENCE IMPOSED AS FOLLOWS: .....

108 ☐ — PROBATION REINSTATED / CONTINUED ON ORIGINAL TERMS AND CONDITIONS. EXCEPT FOR MODIFICATION THAT .....

109 ☐ SENTENCE / COUNTS TO RUN CONSECUTIVELY / CONCURRENTLY WITH .....

110 ☐ — PURSUANT TO SEC. 17 PENAL CODE, OFFENSE IS DEEMED TO BE A MISDEMEANOR.

111 ☐ DEFENDANT IS SENTENCED TO ..... COUNTY JAIL; SENTENCE IS SUSPENDED.

112 ☐ — PROBATION IS ORDERED TERMINATED PURSUANT TO SEC. 1203.3 PENAL CODE.

113 ☐ PLEA OF GUILTY OR CONVICTION IS SET ASIDE; A PLEA OF NOT GUILTY IS ENTERED; CASE IS DISMISSED PURSUANT TO SEC. 1203.4 PENAL CODE.

PAYMENT OF DOCTORS/ATTORNEYS

114 ☐ — THE COURT HAVING APPOINTED ..... PURSUANT TO SECTION(S) ..... AND SAID SERVICE HAVING BEEN RENDERED / COMPLETED ON ..... COURT FINDS THAT $ ..... IS A REASONABLE SUM FOR COMPENSATION AND NECESSARY EXPENSES AND ORDERS A WARRANT BE DRAWN BY THE AUDITOR ON THE TREASURER FOR SAID SUM IN FAVOR OF

NAME:
ADDRESS:
CITY, STATE, ZIP:

115 ☐ THE COURT HAVING APPOINTED ..... PURSUANT TO SECTION(S) ..... AND SAID SERVICE HAVING BEEN RENDERED / COMPLETED ON ..... COURT FINDS THAT $ ..... IS A REASONABLE SUM FOR COMPENSATION AND NECESSARY EXPENSES AND ORDERS A WARRANT BE DRAWN BY THE AUDITOR ON THE TREASURER FOR SAID SUM IN FAVOR OF

NAME:
ADDRESS:
CITY, STATE, ZIP:

116 ☐ — **REFERRAL TO DEPARTMENT 95** PURSUANT TO SECTION 3051 WELFARE AND INSTITUTIONS CODE CRIMINAL PROCEEDINGS SUSPENDED. PETITION ORDERED FILED IN DEPARTMENT 95 PURSUANT TO SEC. 3051 WELFARE AND INSTITUTIONS CODE. IN ORDER THAT AN EXAMINATION AND HEARING MAY BE HAD TO DETERMINE WHETHER DEFENDANT IS ADDICTED TO THE USE OF NARCOTIC DRUGS OR BY REASON OF REPEATED USE OF NARCOTICS IS IN IMMINENT DANGER OF BECOMING SO ADDICTED, AND DEFENDANT IS REMANDED TO CUSTODY OF THE SHERIFF OF LOS ANGELES COUNTY PENDING FURTHER ORDER OF DEPARTMENT 95.

117 ☐ FURTHER PROCEEDINGS CONTINUED TO ..... AT ..... A.M. IN DEPT. .....

MENTALLY DISORDERED SEX OFFENDER PROCEEDINGS

118 ☐ — CRIMINAL PROCEEDINGS SUSPENDED. COURT INSTITUTES M.D.S.O. PROCEEDINGS.

119 ☐ DEFENDANT WAIVES / SERVED WRITTEN CERTIFICATION RE M.D.S.O. PROCEEDINGS.

120 ☐ — PURSUANT SEC. 6307 WEL. & INST. CODE, COURT APPOINTS DR. ..... AND DR. ..... TO EXAMINE DEFENDANT.

121 ☐ SUPPLEMENTAL PROBATION REPORT ORDERED.

122 ☐ — HEARING RE M.D.S.O. PROCEEDINGS, FURTHER CRIMINAL PROCEEDINGS, CONTINUED TO ..... AT ..... A.M.

123 ☐ COURT ADVISES DEFENDANT OF HIS APPEAL RIGHTS.

124 ☒ — **FURTHER ORDERS AS FOLLOWS:** The Court finds after examination that the Deft is not capable of representing himself and the Pro Per status is revoked and Pro Per privileges terminated. Deft's motion to Act as Co-Counsel is denied. Deft's motion for appointment of private counsel is denied.

125 ☐ DEFENDANT FAILS TO APPEAR WITH / WITHOUT SUFFICIENT EXCUSE. BAIL FORFEITED / OWN RECOGNIZANCE REVOKED.

126 ☐ — BENCH WARRANT ORDERED ISSUED / HELD UNTIL .....

127 ☐ NO BAIL / BAIL FIXED AT $ .....

☒ REMANDED ☐ BAIL ☐ O.R. ☐ RELEASED ☐ DISCHARGED ☐ BAIL EXONERATED

MINUTE ORDER Date:

4 MISC.

4 MISC.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: JULY 24 1972
HONORABLE: ELSWORTH M BEAM — JUDGE — HON. I M AYERS — DEPT. SO J
Deputy Sheriff: (NONE) — Deputy Clerk — Reporter

CASE NO. A012485 (Parties and counsel checked if present)

PEOPLE OF THE STATE OF CALIFORNIA
VS
01 FARETTA ANTHONY PASQUALL

Counsel for People: DEPUTY DISTRICT ATTY.
Counsel for Defendant:

CHARGE: 487.3 01 Ct

MINUTES ENTERED 7-24-72

NATURE OF PROCEEDINGS: Acknowledgement of receipt of Motion purs 995 PC

(BOX CHECKED IF ORDER APPLICABLE)

101 ☐ .....

102 ☐ PUBLIC DEFENDER APPOINTED. D.P.D. ..... BEING PRESENT

103 ☐ ON MOTION OF DEFENDANT ..... RELIEVED, AND

104 ☐ ..... IS SUBSTITUTED AS ATTORNEY OF RECORD.
ON ..... MOTION. FURTHER PROCEEDINGS CONTINUED TO .....

105 ☐ AT ..... A.M. IN DEPT. ..... ☐ NON-APPEARANCE CALENDAR
SUPPLEMENTAL PROBATION REPORT IS ORDERED

106 ☐ DEFENDANT IS FOUND **TO BE / NOT TO BE** IN VIOLATION OF PROBATION

107 ☐ PROBATION IS **REVOKED** / REMAINS REVOKED. SENTENCE IMPOSED AS FOLLOWS:

108 ☐ PROBATION **REINSTATED** / CONTINUED ON ORIGINAL TERMS AND CONDITIONS. **EXCEPT FOR MODIFICATION** THAT

109 ☐ SENTENCE / COUNTS TO RUN CONSECUTIVELY / CONCURRENTLY WITH .....

110 ☐ PURSUANT TO SEC. 17 PENAL CODE, OFFENSE IS DEEMED TO BE A MISDEMEANOR.

111 ☐ DEFENDANT IS SENTENCED TO ..... COUNTY JAIL; SENTENCE IS SUSPENDED.

112 ☐ PROBATION IS ORDERED **TERMINATED** PURSUANT TO SEC. 1203.3 PENAL CODE.

113 ☐ PLEA OF GUILTY OR CONVICTION IS SET ASIDE, A PLEA OF NOT GUILTY IS ENTERED, CASE IS **DISMISSED** PURSUANT TO SEC. 1203.4 PENAL CODE.

PAYMENT OF DOCTORS/ATTORNEYS

114 ☐ THE COURT HAVING APPOINTED ..... PURSUANT TO SECTION(S) ..... AND SAID SERVICE HAVING BEEN RENDERED/COMPLETED ON ..... COURT FINDS THAT $ ..... IS A REASONABLE SUM FOR COMPENSATION AND NECESSARY EXPENSES AND ORDERS A WARRANT BE DRAWN BY THE AUDITOR ON THE TREASURER FOR SAID SUM IN FAVOR OF

NAME:
ADDRESS:
CITY, STATE, ZIP:

115 ☐ THE COURT HAVING APPOINTED ..... PURSUANT TO SECTION(S) ..... AND SAID SERVICE HAVING BEEN RENDERED/COMPLETED ON ..... COURT FINDS THAT $ ..... IS A REASONABLE SUM FOR COMPENSATION AND NECESSARY EXPENSES AND ORDERS A WARRANT BE DRAWN BY THE AUDITOR ON THE TREASURER FOR SAID SUM IN FAVOR OF

NAME:
ADDRESS:
CITY, STATE, ZIP:

116 ☐ **REFERRAL TO DEPARTMENT** 95 PURSUANT TO SECTION 3051 WELFARE AND INSTITUTIONS CODE CRIMINAL PROCEEDINGS SUSPENDED. PETITION ORDERED FILED IN DEPARTMENT 95 PURSUANT TO SEC. 3051 WELFARE AND INSTITUTIONS CODE. IN ORDER THAT AN EXAMINATION AND HEARING MAY BE HAD TO DETERMINE WHETHER DEFENDANT IS ADDICTED TO THE USE OF NARCOTIC DRUGS OR BY REASON OF REPEATED USE OF NARCOTICS IS IN IMMINENT DANGER OF BECOMING SO ADDICTED, AND DEFENDANT IS REMANDED TO CUSTODY OF THE SHERIFF OF LOS ANGELES COUNTY PENDING FURTHER ORDER OF DEPARTMENT 95

117 ☐ FURTHER PROCEEDINGS CONTINUED TO ..... AT ..... A.M. IN DEPT. .....

MENTALLY DISORDERED SEX OFFENDER PROCEEDINGS

118 ☐ CRIMINAL PROCEEDINGS SUSPENDED. COURT INSTITUTES M.D.S.O. PROCEEDINGS

119 ☐ DEFENDANT WAIVES / SERVED WRITTEN CERTIFICATION RE M.D.S.O. PROCEEDINGS

120 ☐ PURSUANT SEC 6307 WEL. & INST. CODE, COURT APPOINTS DR. ..... AND DR. ..... TO EXAMINE DEFENDANT

121 ☐ SUPPLEMENTAL PROBATION REPORT ORDERED.

122 ☐ HEARING RE M.D.S.O. PROCEEDINGS. FURTHER CRIMINAL PROCEEDINGS. **CONTINUED TO** ..... AT ..... A.M.

123 ☐ COURT ADVISES DEFENDANT OF HIS APPEAL RIGHTS.

124 ☐ **FURTHER ORDERS AS FOLLOWS:**

The Court acknowleges receipt of letter dated July 12 1972 and the Notice of Motion pursuant to Sec 995 P.C. which the Court is turning over to the Public Defender in this case. Copy of this minute order mailed to: Anthony Faretta, 1992-490 2500 B-6, LosAngeles Central Jail, 441 Bauchet St., Los Angeles, Ca 90012.

125 ☐ DEFENDANT FAILS TO APPEAR WITH / WITHOUT SUFFICIENT EXCUSE. **BAIL FORFEITED/OWN RECOGNIZANCE** REVOKED.

126 ☐ **BENCH WARRANT** ORDERED ISSUED/**HELD** UNTIL .....

127 ☐ NO BAIL / BAIL FIXED AT $ .....

☐ REMANDED ☐ BAIL ☐ O.R. ☐ RELEASED ☐ DISCHARGED ☐ BAIL EXONERATED

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPT. SO-J

Date: AUGUST 2, 1972
HONORABLE CARROLL M. DUNHAM, JUDGE
MARK W. BAILEY, Deputy Sheriff
S. F. PERKISS, Deputy Clerk
S. BOREN, Reporter
(Parties and counsel checked if present)

10

~~XXXXXXXX~~ A 012485
PEOPLE OF THE STATE OF CALIFORNIA

VS

01 FARETTA, ANTHONY [illegible]

Counsel for ~~XXXXXX~~ People: DEPUTY DISTRICT ATTY: GEORGE ZUGSMITH

Counsel for Defendant: DEPUTY PUBLIC DEFENDER: A. LIEMAN

1157.3 PC 1 ct

Statistical Code	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Clerks Use Only																

NATURE OF PROCEEDINGS: TRIAL

Cause is called for trial. All parties present as indicated. On People's motion information is amended to allege 3 priors, Defendant is rearraigned and denies the priors. On defendant's motion the motion pursuant to Section 995 Penal Code is withdrawn.
By order of the Court the following jurors are impaneled and sworn to try the cause:

Mrs. Mary Zelaya
Norman Rogers
Mrs. Betty L. Johnston
Mrs. Shirley L. Schmidt
Mrs. Sandra J. Jedrikis
Isiah Ross
Mrs. Betty J. Snyder
Richard T. Sims
Mrs. Lorraine G. Sundstrom
Harold D. Cooper
Donald R. Jensen
Thomas R. Thompson, Jr.

Opening argument is made by People and reserved by defendant. Jury is admonished and trial is continued to August 3, 1972 at 9:00 a.m.

Defendant Remanded

Entered 8-2-72

Dept.

76M414D2 - 10/69

POOR COPY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPT. SO-J

Date: AUGUST 3, 1972
HONORABLE CARROLL M. DUNNUM — JUDGE — S. F. PERKISS, Deputy Clerk
MARK W. BAILEY — Deputy Sheriff — S. BOREN, Reporter
(Parties and counsel checked if present)

11

A 012485
PEOPLE OF THE STATE OF CALIFORNIA

Counsel for Plaintiff: GEROGE ZUGSMITH, DEPUTY DISTRICT ATTORNEY

VS

Counsel for Defendant: A. LIEMAN, DEPUTY PUBLIC DEFENDER

01 FARETTA, ANTHONY PASQUALL

487.3 1 ct

Statistical Code	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Clerks Use Only																

NATURE OF PROCEEDINGS: JURY TRIAL

Trial resumes from August 2, 1972, with all parties present and jurors as before. Out of the presence of the jury, the defendant personally moves the court for pro per status of for the appointment of a private attorney under Section 987.2 P.C. Motion is argued and denied.

In open Court with all present:

Dean Howard Telfore, Margaret Ann Telfore, Jack S. Edwards, Patricia Ann Hamilton, Patrick Orvie Riley, Billy Donns Sims, Bart K. Triesch, Jeffrey Cornell Bird, Walter S. Williamsson and Virgil R. Shitley are sworn and testify for the People. People's exhibits one through 6 (each a photo), 7 (cert of ownership), 8 (car keys), 9 (L. A. traffic citation), 10(Long Beach traffic citation), 11 (pink slip from car), 12 (suspense receipt), 13(suspense receipt), 14(bill of sale), 15 (set of license plates), 16 (2 sets of cert. copies from DMV), 17 (one set of cert. copies from DMV), 18(cooy of arrest rept.) and 19 ((Superior Court file no. CR 309498)(by reference) are all marked for identification only.

Jury is admonished and trial is continued to August 4, 1972 at 9:30 a.m.

11

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPT. SO-J

Date: AUGUST 4, 1972

HONORABLE CARROLL M. DUNNUM JUDGE S. F. PERKISS, Deputy Clerk
8 MARK W. BAILEY Deputy Sheriff S. BOREN, Reporter
(Parties and counsel checked if present)

A 012485
PEOPLE OF THE STATE OF CALIFORNIA — Counsel for Plaintiff: GEROGE ZUGSMITH, DEPUTY DISTRICT ATTORNEY

VS

01 FARETTA, ANTHONY PASQUALL — Counsel for Defendant: A. LIEMAN, DEPUTY PUBLIC DEFENDER

487.3 1 ct

Statistical Code / Clerks Use Only

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16

NATURE OF PROCEEDINGS:

Trial resumes from August 3, 1972, with all parties and jurors present as before. Walter M. Schultz, Wallace Dillon, Wesley M. Bertz and Steve Housden are sworn and testify for the People.

People's exhibits 20 (Long Beach P.D identification sheet), 21 (copy of exemplar card), 22 (partial set of finger prints from L.B. P.D), 23(Los Angeles County Superior Court file No. 309498) (BY REFERENCE), 24 certified copies of Superior Court file from Orange County) are all received in evidence, and exhibit 25 (Distirct attorney's file no #380784) is marked for identification only (BY REFERENCE). People'sexhibits one through 19 all previously marked for identification only is now received in evidence. People rest.

Opening statement is waived by defendant. Anthony Pasquall is swofn and testifies for the defendant. Defendant rests. Plaintiff's exhibit 26 (note of deft.) is received in evidence. Both rest.

Jury is admonished and trial is continued to August 7, 1972 at 9:30 a.m.

12

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

FILED

The People of the State of California PLAINTIFF(S) VS. ANTHONY PASQUALL FARETTA DEFENDANT(S)	CASE NUMBER A 012485 — DEPARTMENT NUMBER SOUTH J AUG 7 1972 WILLIAM G. SHARP, County Clerk BY [illegible], DEPUTY VERDICT (Guilty)

We, the Jury in the above-entitled action, find the Defendant ANTHONY PASQUALL FARETTA guilty of GRAND THEFT, IN VIOLATION OF SECTION 487.3 PENAL CODE

FILED
AUG 7 1972
WILLIAM G. SHARP, County Clerk
BY G. P. PERKINS, DEPUTY

as charged in _____ the _____ information

This 7 day of AUGUST 19 72. J R Thompson
Foreman

VERDICT (Guilty)

76V210 - CR8 - 4/69

FILED

AUG 7 1972

WILLIAM G. SHARP, County Clerk

BY R. P. PERKINS, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

CASE NUMBER	DEPARTMENT NUMBER
A 012485	SOUTH J

The People of the State of California
PLAINTIFF(S)

vs.

ANTHONY PASQUALE FARETTA
DEFENDANT(S)

VERDICT ~~(NOT GUILTY)~~ (PRIOR)

We, the Jury in the above-entitled action, find the ~~Defendant~~ the allegation of the prior conviction ~~charged~~ of violation of 11530 Health and Safety Code as charged in case no. 309498 in the County of Los Angeles about the 30th day of November, 1965 to be (not true ( ) (true (X)

as charged in the information.

This 7 day of AUGUST 19 72. J. R. Thompson
Foreman

VERDICT (Not Guilty)

76V225 - 4/69

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

FILED
AUG 7 1972
WILLIAM G. SHARP, County Clerk
BY R. F. PERUSSI, DEPUTY

The People of the State of California vs. PLAINTIFF(S)	CASE NUMBER A 012485	DEPARTMENT NUMBER SOUTH J
ANTHONY PASQUALL FARETTA DEFENDANT(S)	VERDICT ~~COUNTY~~ (PRIOR)	

We, the Jury in the above-entitled action, find the ~~Defendant~~ XXX the allegation of ~~the prior conviction~~ ~~guilty~~ of violation of Section 11530 Health and Safety Code as charged in Superior Court in the County of Orange about the 5th day of May, 1967 is { TRUE (X) / NOT TRUE ( )

as charged in _____ the _____ information

This 7 day of AUGUST 1972. J. R. Thompson
Foreman

76V210 - CR8 - 4/69

VERDICT (Guilty)

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

FILED
AUG 7 1972
WILLIAM G. SHARP, County Clerk
BY G. P. PERKINS, DEP.

	CASE NUMBER	DEPARTMENT NUMBER
The People of the State of California PLAINTIFF(S) vs. ANTHONY PASQUALL FARETTA DEFENDANT(S)	A 012685	SOUTH J

VERDICT [redacted]
(PRIOR)

We, the Jury in the above-entitled action, find the [redacted] allegation of the prior conviction [redacted] of violation of 10851 Vehicle Code as charged in the case no A 006595, Los Angeles County, about the 25th day of March, 1970 to be

true (X)
not ture ( )

as charged in the information.

This 7 day of AUGUST 19 72. J R J Dompson
Foreman

VERDICT (Not Guilty)

76V225 - 4/69

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

The People of the State of California VS. PLAINTIFF(S) ANTHONY PASQUALL FARETTA DEFENDANT(S)	CASE NUMBER A 012485 DEPARTMENT NUMBER SOUTH J VERDICT ~~(Guilty)~~ (PRIOR)

We, the Jury in the above-entitled action, find the ~~Defendant~~ allegation of the prior conviction ~~guilty~~ of violation of 487.3 Penal Code as charged in the Los Angeles County case number A 006595 about the 25th day of March, 1970 to be { not true ( ) / true (X)

as charged in _____ the _____ information

This 7 day of AUGUST 19 72 J. R. Thompson
Foreman

76V210 - CR8 - 4/69

VERDICT (Guilty)

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPT. SO-J

Date: AUGUST 7, 1972
HONORABLE CARROLL M. DUNNUM, JUDGE
13 A MARK W. BAILEY, Deputy Sheriff
S. F. PERKISS, Deputy Clerk
S. BOREN, Reporter
(Parties and counsel checked if present)

A 012485
PEOPLE OF THE STATE OF CALIFORNIA

VS

FARETTA,
01 ANTHONY PASQUALL ~~XXXXXXX~~
487.3

Counsel for Plaintiff: GEORGE ZUGSMITH, DEPUTY DISTRICT ATTORNEY

Counsel for Defendant: A. LIEMAN, DEPUTY PUBLIC DEFENDER

Statistical Code	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Clerks Use Only																

NATURE OF PROCEEDINGS: TRIAL- JURY

Trial resumes from August 4, 1972, with all parties and jurors present as before. But of the presence of the jury:

Pursuant to stipulation and order the clerk photocopies certain documents form People's exhibit 19 (Superior Court file 309498) by reference and exhibt 23 ((Superior Court filed no. A 006595) by reference. Pursuant to stipulation and order the photocopies are substitued as exhibits and received in evidence.

In open Court:

Cause is argued. Jury is instructed and bailiff is sworn to take charge of the jury. At 1:50 p.m. the jury retire to commence deliberations. At 2:30 p.m. the jury return into the courtroom with the following verdicts:

(Title of Court and Cause)

"We, the Jury in the above-entitled action, find the Defendant Anthony Pasquall Faretta guilty of Grand theft, in violation of Section 487.3 Penal Code as charged in the information.

This 7 day of August, 1972

T. R. Thompson, Foreman."

Jury is polled and all answer "yes".

(Title of Court and Cause)

"We, the Jury in the avove-entitled action, find the allegation of the prior conviction of violation of 11530 Health and Safety Code as charged in the information in case no 309498 in the County of Los Angeles about the 30th day of November, 1965, to be (true ( )
(not true (X).

T. R. Thompson, Foreman."

This 7 day of August, 1972

(Title of Court and Cause)

"We, the Jury in the avove-entitled action, find the allegation of the prior conviction of violation of Section 11530 Health and Safety Code as charged in Superior Court in the County of Orange about the 5th day of May, 1967 to be
TRUE (X)
NOT TRUE ( ) as charged in the information.

T. R. Thompson, Foreman."

This 7 day of August, 1973

76M414D2 - 10/69

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPT. SO-J

Date AUGUST 7, 1972
HONORABLE CARROLL M. BUNNUM JUDGE
13 B MARK W. BAILEY Deputy Sheriff
S. F. PERKISS . Deputy Clerk
S. BOREN . Reporter
(Parties and counsel checked if present)

A 012485
PEOPLE OF THE STATE OF CALIFORNIA
Pg 2
VS
of
01 FARETTA, ANTHONY PASQUALL
pg 2

Counsel for Plaintiff: GEORGE ZUGSMITH, DEPUTY DISTRICT ATTORNEY
Counsel for Defendant: A. LIEMAN, DEPUTY PUBLIC DEFENDER

Statistical Code / Clerks Use Only

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16

NATURE OF PROCEEDINGS: JURY TRIAL (continued)

(Title of Court and Cause)

"We, the Jury in the above-entitled-action, find the allegation of the prior conviction of violation of 10851 Vehicle Code as charged in the case no. A 006595, Los Angeles County, about the 25th day of March, 1970, to be (TRUE (X)
(NOT TURE( )
(
as charged in the information.
This 7 day of August, 1972

T. R. Thompson, Foreman."

(Title of Court and Cause)

We, the Jury in the above-entitled action, find the allegation of the prior conviction of violation of 487.3 Penal Code as charged in the Los Angels County case No. A 006595 about the 25th day of March, 1970 to be(not true ( )
(true (X)
(
as charged in the information.
This 7 day of August, 1972

T. R. Thompson, Foreman."

Jury is polled as to all priors and all answer "yes". Jury is discharged. Verdicts are filed. All verdicts submitted to jury are filed. Rereading of verdicts are waived. Instruction given, refused and withdrawn are filed. Defendant waives time for sentence, referred to probation department. Probation and sentence hearing is set for September 5, 1972 at 9:00 a.m in Department J.

Defendant is remanded.

Dept.

3 P&S

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

SOJ

Date SEPTEMBER 05 1972 DEPT. I M AYERS

HONORABLE EL SWORTH BEAM JUDGE — ~~S SUTTON~~ J. Sent Deputy Sheriff — M. Dillworth ~~H KEWES~~ Deputy Clerk, Reporter

804

CASE NO. 900AM A012485

(Parties and counsel checked if present)

PEOPLE OF THE STATE OF CALIFORNIA
VS
01 FARETTA ANTHONY PASQUALL
487.3 01CTS (4 ctns)

Counsel for People: DEPUTY DISTRICT ATTY. R. Berger

Counsel for Defendant: A LIEMAN PD

X498838

MINUTES ENTERED 9-5-72

CHARGE

NATURE OF PROCEEDINGS P&S

(BOX CHECKED IF ORDER APPLICABLE)

71 ☐ .....

72 ☐ — PUBLIC DEFENDER APPOINTED. D.P.D ..... BEING PRESENT.

73 ☐ CRIMINAL PROCEEDINGS **RESUMED/ADJOURNED.**

74 ☐ — .....

.....

75 ☐ DEFENDANT ORDERED DELIVERED TO DEPARTMENT OF CORRECTIONS PER SEC. 1203.03 PENAL CODE.

76 ☐ — ON ..... MOTION. PROBATION AND SENTENCE **HEARING CONTINUED TO** ..... AT ..... A.M. IN DEPT. ..... ☐ NON-APPEARANCE CALENDER

77 ☐ **SUPPLEMENTAL PROBATION REPORT** ORDERED. .....

78 ☐ — DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TIME FOR SENTENCING.

79 ☐ **PROBATION DENIED.** SENTENCE IS IMPOSED AS FOLLOWS:

- ☐ IMPRISONED IN **STATE PRISON** FOR TERM PRESCRIBED BY LAW.
- ☐ COMMITTED TO **CALIFORNIA YOUTH AUTHORITY.**
- ☐ IMPRISONED IN **LOS ANGELES COUNTY JAIL** FOR TERM OF .....
- ☐ FINED IN SUM OF $ ..... PLUS PENALTY ASSESSMENT TO BE PAID TO COUNTY CLERK.

80 ☐ — **SENTENCE IS SUSPENDED.**

81 ☐ PROCEEDINGS SUSPENDED

82 ☐ — **PROBATION GRANTED** FOR PERIOD OF ..... YEARS (SEE CONDITIONS LISTED BELOW).

83 ☐ PROBATION TO BE WITHOUT FORMAL SUPERVISION.

1 ☐ SPEND FIRST ..... IN COUNTY JAIL ☐ ROAD CAMP OR HONOR FARM RECOMMENDED.

2 ☐ — PAY FINE OF $ ..... + P.A. TO COUNTY CLERK/PROBATION OFFICER IN SUCH MANNER AS HE SHALL PRESCRIBE.

3 ☐ MINIMUM PAYMENT OF FINE/RESTITUTION TO BE $ .....

4 ☐ — MAKE RESTITUTION THROUGH P.O. IN SUCH AMOUNT AND MANNER AS OFFICER SHALL PRESCRIBE.

5 ☐ NOT DRINK ANY ALCOHOLIC BEVERAGE AND STAY OUT OF PLACES WHERE THEY ARE THE CHIEF ITEM OF SALE.

6 ☐ — NOT USE OR POSSESS ANY NARCOTICS, DANGEROUS OR RESTRICTED DRUGS OR ASSOCIATED PARAPHERNALIA, EXCEPT WITH VALID PRESCRIPTION, AND STAY AWAY FROM PLACES WHERE USERS CONGREGATE.

7 ☐ NOT ASSOCIATE WITH PERSONS KNOWN BY YOU TO BE NARCOTIC OR DRUG USERS OR SELLERS.

8 ☐ — SUBMIT TO PERIODIC ANTI-NARCOTIC TESTS AS DIRECTED BY THE PROBATION OFFICER.

9 ☐ HAVE NO BLANK CHECKS IN POSSESSION, NOT WRITE ANY PORTION OF ANY CHECKS, NOT HAVE BANK ACCOUNT UPON WHICH YOU MAY DRAW CHECKS.

10 ☐ — NOT GAMBLE OR ENGAGE IN BOOKMAKING ACTIVITIES OR HAVE PARAPHERNALIA THEREOF IN POSSESSION, AND NOT BE PRESENT IN PLACES WHERE GAMBLING OR BOOKMAKING IS CONDUCTED.

11 ☐ NOT ASSOCIATE WITH .....

12 ☐ — COOPERATE WITH P.O. IN A PLAN FOR .....

13 ☐ SUPPORT DEPENDANTS AS DIRECTED BY PROBATION OFFICER.

14 ☐ — SEEK AND MAINTAIN TRAINING, SCHOOLING OR EMPLOYMENT AS APPROVED BY THE P.O.

15 ☐ MAINTAIN RESIDENCE AS APPROVED BY P.O. (DEF'T. MAY RESIDE IN ..... UNDER THE TERMS OF .....).

16 ☐ — SURRENDER DRIVER'S LICENSE TO CLERK OF COURT TO BE RETURNED TO D.M.V.

17 ☐ NOT DRIVE A MOTOR VEHICLE UNLESS LAWFULLY LICENSED AND INSURED.

18 ☐ — NOT OWN, USE OR POSSESS ANY DANGEROUS OR DEADLY WEAPONS.

19 ☐ SUBMIT HIS PERSON AND PROPERTY TO SEARCH OR SEIZURE AT ANY TIME OF THE DAY OR NIGHT BY ANY LAW ENFORCEMENT OFFICER WITH OR WITHOUT A WARRANT.

20 ☐ — OBEY ALL LAWS, ORDERS, RULES AND REGULATIONS OF THE PROBATION DEPT. AND OF THE COURT.

84 ☐ — DEFENDANT TO BE GIVEN **CREDIT FOR TIME** ALREADY SERVED (..... DAYS)

85 ☐ SENTENCE/COUNTS TO RUN CONSECUTIVELY/CONCURRENTLY WITH .....

86 ☐ — STAY OF EXECUTION GRANTED TO .....

87 ☐ SECTION 13202(B) VEHICLE CODE DOES/DOES NOT APPLY .....

88 ☐ — PURSUANT TO SEC 17 PENAL CODE. OFFENSE IS DEEMED TO BE A MISDEMEANOR.

89 ☐ ON MOTION OF PEOPLE. COUNTS ..... DISMISSED IN FURTHERANCE OF JUSTICE

90 ☐ — COURT ADVISES DEFENDANT OF HIS APPEAL RIGHTS

91 ☒ **FURTHER ORDER AS FOLLOWS/~~ADDITIONAL CONDITIONS OF PROBATION~~:**
Cause is transferred to Dept. So C.

92 ☐ — DEFENDANT FAILS TO APPEAR WITH/WITHOUT SUFFICIENT EXCUSE **BAIL FORFEITED/OWN RECOGNIZANCE REVOKED.**

93 ☐ **BENCH WARRANT** ORDERED ISSUED/**HELD** UNTIL .....

94 ☐ — NO BAIL/BAIL FIXED AT $ .....

95 ☐ DEFENDANT APPEARING. BENCH WARRANT ORDERED **RECALLED**/QUASHED

96 ☐ — ORDER OF ..... FORFEITING BAIL VACATED BAIL REINSTATED ON FILING OF REASSUMPTION AND PAYMENT OF $ ..... COSTS BEFORE .....

97 ☐ REASSUMPTION FILED/COSTS PAID (RECEIPT NO. .....). BAIL REINSTATED

☒ REMANDED ☐ BAIL ☐ O.R. ☐ RELEASED ☐ DISCHARGED ☐ BAIL EXONERATED

MINUTE ORDER Date:

3 P&S

20

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES **DEPT.** SO C

Date: SEPTEMBER 5, 1972
HONORABLE: CARROLL M DUNNUM JUDGE
MARK W BAILEY Deputy Sheriff

S R PERKISS, Deputy Clerk
YOLANDA POTTER, Reporter
(Parties and counsel checked if present)

A012485
PEOPLE OF THE STATE OF CALIFORNIA
VS
ANTHONY PASQUALL FARETTA
X498838

Counsel for Plaintiff: JOSEPH P BUSCAINO JR EVELLE J YOUNGER, DISTRICT ATTY. BY R BERGER DEPUTY

Counsel for Defendant: R. S. BUCKLEY, PUBLIC DEFENDER BY A LIEMAN DEPUTY

NATURE OF PROCEEDINGS PROBATION AND SENTENCE

(Boxes checked if order applicable)

THE COURT STRIKES THE MOTIONS.

DEFENDANT'S MOTION FOR REFERRAL TO DEPARTMENT 95 IS ARGUED AND DENIED.

PROBATION DENIED. SENTENCE AS INDICATED BELOW.
Whereas the said defendant having been duly found guilty in this court of the crime of GRAND THEFT, In Violation of Section 487.3, Penal Code, a felony, as charged in the Information,

It is Therefore Ordered, Adjudged and Decreed that the said defendant be punished by imprisonment in the
☐ County Jail of the County of Los Angeles for the term of.....
☒ State Prison for the term prescribed by law. DEFENDANT TO BE GIVEN CREDIT FOR 105 DAYS ALREADY SERVED.
☐ California Institution for Women for the term prescribed by law.

It is further Ordered that the defendant be remanded into the custody of the Sheriff of the County of Los Angeles
☒ to be by him delivered into the custody of the Director of Corrections at the California State Prison at Chino.
☐ to be by him delivered into the custody of the Director of Corrections at the California State Institution for Women at Frontera.

Defendant's motion for bail on appeal is denied.

THIS MINUTE ORDER WAS ENTERED
SEPTEMBER 5, 1972
WILLIAM G. SHARP, COUNTY CLERK AND CLERK OF THE SUPERIOR COURT

☐ Remaining count(s) dismissed in interests of justice.
☐ Bail exonerated.

2 76J 605A - 8/70 **JUDGMENT**

POOR COPY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPT. SC-C

Date: OCTOBER 2,1972

HONORABLE CARROLL L. DUNN JUDGE | S. F. PERKINS , Deputy Clerk
HONORABLE [illegible] Deputy Sheriff | S. LOMAX , Reporter
2 (Parties and counsel checked if present.)

A 012485

PEOPLE OF THE STATE OF CALIFORNIA

VS

CI FARETTA, ANTHONY FAGUALL

Counsel for Plaintiff: VICTOR J. LUCSHIN, DEPUTY DISTRICT ATTORNEY

Counsel for Defendant: A. LILLAR, DEPUTY PUBLIC DEFENDER

487.3

22

Statistical Code	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Clerks Use Only																

NATURE OF PROCEEDINGS: Nunc Pro Tunc Order

Through inadvertence and clerical error the minute order of 8/7/72 is corrected nunc pro tunc as of said date as follows:
Correct minute order of verdict to read:
"We, the jury in the above entitled action, find the allegation of the xx prior conviction of 11550 H&S and Penal Code as charged in the information in case no 309490 in the County of Los Angeles about the 30th day of November, 1965 to be true (XX)
not true ( )
This 7th day of August, 1972 T. K. Thompson, Foreman."

(Correction made in to show "true" no not "not true.")

[Filed Sep. 5, 1972, William G. Sharp, County Clerk, By Elma S. Combs, Deputy]

ANTHONY PASQUALL FARETTA
Booking No. 1992 490
P.O. Box 54320
Terminal Annex
Los Angeles, California 90054

In Propria Persona

SUPERIOR COURT OF THE
STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

No. A 012 485

THE PEOPLE OF THE STATE OF CALIFORNIA, PLAINTIFF

vs.

ANTHONY PASQUALL FARETTA, DEFENDANT

NOTICE OF APPEAL

Defendant ANTHONY PASQUALL FARETTA hereby appeals from the judgment rendered against him in the above-entitled action.

Dated: September 5, 1972

/s/ Anthony P. Faretta
ANTHONY PASQUALL FARETTA

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

2D Crim. No. 22722

THE PEOPLE OF THE STATE OF CALIFORNIA,
PLAINTIFF AND RESPONDENT

v.

ANTHONY PASQUALL FARETTA,
DEFENDANT AND APPELLANT

PETITION FOR HEARING

* * * *

III. THE COURT GRANTED DEFENDANT'S MOTION TO REPRESENT HIMSELF. LATER THE COURT REVOKED "PRO PER" STATUS. THE COURT WAS WITHOUT POWER TO REVOKE "PRO PER" STATUS.

Defendant contends that once the Court granted defendant's motion to represent himself, the Court could not revoke the grant. (A. O. B. 14-15)

The opinion, in part, states: "Faretta had no constitutional right to represent himself. (citation) And we cannot say that the trial court abused its discretion—*Smith* v. *Superior Court*: 68 Cal 2d 547, relied on by Faretta, is not in point. (Opinion page 4)

But *Smith* held that the right to counsel requires that counsel be free in all cases of the threat that he may be summarily relieved as incompetent. The judge may intervene to assist. Also, a defendant who is "pro per" should be free of the threat that he may be summarily relieved.

* * * *

IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION TWO

[Filed Jun. 26, 1973, Court of Appeal, Second Dist., Clay Robbins, Jr., Clerk]

2D Crim. No. 22722

(Sup. Ct. No. A 012 485)

THE PEOPLE OF THE STATE OF CALIFORNIA,
PLAINTIFF AND RESPONDENT

v.

ANTHONY PASQUALL FARETTA,
DEFENDANT AND APPELLANT

APPEAL from judgment of the Superior Court of Los Angeles County. Carroll M. Dunnum, Judge. Affirmed.

Norman W. De Carteret, Esq., under appointment by the Court of Appeal, for Appellant.

Evelle J. Younger, Attorney General, Edward A. Hinz, Jr., Chief Assistant Attorney General—Criminal Division, William E. James, Assistant Attorney General—Appeals Section, Howard J. Schwab and Donald J. Oeser, Deputy Attorneys General, for Respondent.

Anthony Pasquall Faretta appeals the judgment after conviction by a jury for grand theft. (Pen. Code, § 487, subd. 3.)

FACTS

Dean Telford's 1963 Chevrolet Nova was stolen from the street in front of his home in Long Beach between 11:00 p.m. on 21 May 1972 and 4:00 a.m. on 22 May 1972. At 6:00 a.m. on 22 May 1972 Compton Police

Officer Edwards stopped defendant Faretta for a traffic violation. Faretta was driving Telford's Nova. The Nova was "hotwired" and the license plates had been changed. Faretta told Edwards he purchased the Nova from "Nubly" two or three days before. Faretta showed Edwards keys he said belonged to the car, but the keys did not work the Nova's locks.

After his arrest, Faretta telephoned the managers of the hotel where he lived and asked them to remove a tapedeck and pink slip (certificate of automobile ownership) from his room and to alter the pink slip to show that Faretta owned the car. The tapedeck and pink slip were in the Nova when it was stolen. The managers gave the tapedeck and pink slip to the police. An investigating officer found another 1963 Chevrolet Nova without license plates parked a block from Faretta's hotel.

Faretta testified for the defense that he bought Telford's Nova from "Jerry" on the evening of 21 May 1972 and switched license plates from another Nova he owned to the newly-purchased one. While in jail awaiting trial, Faretta attempted to pass a note to another prisoner: "Jerry . . . I've been down since May 21, on a GTA. I told them when I got busted I bought the car from a guy named Jerry . . . If you sold me the car on the 20th of May, 1972 about 10:00 p.m. please confide in my attorney and we'll try to get around in the court. . . ."

ISSUES

Faretta contends (1) the court should have permitted him to represent himself; (2) there was no probable cause for his arrest; (3) the pink slip was illegally seized by an agent of the police; (4) he was denied his right to produce witnesses; (5) the prosecutor's question concerning a prior consistent statement was prejudicial misconduct; and (6) the court should have instructed the jury concerning the limited use of evidence of prior offenses.

DISCUSSION

1. *Representation.*

The court initially granted Faretta's motion to represent himself. During pretrial proceedings, however, the court concluded that Faretta had not intelligently waived his right to be represented by counsel, and appointed counsel to represent him at trial. Faretta contends the court erred.

We find no error. Faretta had no constitutional right to represent himself. (*People* v. *Sharp*, 7 Cal.3d 448, 459-460.) And we cannot say that the trial court abused its discretion in concluding that Faretta had not made a knowing and intelligent waiver of his right to be represented by counsel. (*People* v. *Floyd*, 1 Cal.3d 694, 702-705.) Despite his desire to be his own attorney, Faretta did not appear aware of the possible consequences of waiving the opportunity for skilled and experienced representation at trial.

Smith v. *Superior Court*, 68 Cal.2d 547, relied on by Faretta, is not in point. *Smith* involved the right of the trial court to replace a court-appointed attorney based on the court's subjective belief that the attorney was not competent to handle the case. The defendant's understanding of the consequences of retaining the attorney was not in issue.

2. *The Arrest.*

Faretta contends there was no probable cause for his arrest and therefore that the car he was driving was illegally seized.

We need not consider this contention because Faretta did not object on this ground at trial. (*People* v. *Flores*, 68 Cal.2d 563, 567.) Moreover, Faretta improperly relies on statements in an arrest report not part of the record on appeal. (*People* v. *Gardner*, 71 Cal.2d 843, 849.) In any event, Officer Edwards testified that when he stopped Faretta for a traffic violation, Faretta stated he did not have a driver's license and did not know where the registration for the Nova was. Edwards saw

that the Nova had been hotwired. Faretta gave Edwards an automobile registration slip that listed the license plates on the Nova but a different vehicle registration number. Edwards ran a check on the vehicle registration number of the Nova, and learned that the Nova should have had a different set of license plates. These facts amply justified Faretta's arrest for theft of the Nova.

3. *The Pink Slip.*

Faretta contends the police obtained the pink slip by an illegal search and seizure. He argues that the hotel manager who found the pink slip in Faretta's hotel room and gave it to the police was acting as an agent of the police.

Faretta testified that he asked the hotel managers to find the pink slip and give it to the police. The hotel managers testified that Faretta asked them to find the pink slip and alter it. The investigating police officer testified that one of the hotel managers told him she was going to look for the pink slip and asked if the officer wanted to be present; he waited outside Faretta's hotel room door until the manager located the pink slip.

The contention is without merit. If Faretta asked the managers to find the pink slip and give it to the police, then he consented to the search. If Faretta asked the managers to find the slip and alter it, he may not complain if the managers violated his confidence and gave the slip to the police. (See *Hoffa* v. *United States*, 385 U.S. 293, 300-303.) And if the investigating officer merely stood by while the hotel manager carried out her own search, we cannot say that the police were so involved in the planning and execution of the search as to render the hotel manager an agent of the police. (See *Raymond* v. *Superior Court*, 19 Cal.App.3d 321, 325-326.)

4. *Right to Produce Witnesses.*

Faretta contends he was denied the right to produce witnesses because his counsel did not call as a witness

Charles Cunningham, the passenger with Faretta in the Nova when he was arrested.

The contention is spurious. Faretta did not present this claim at trial. He made no showing that Cunningham would have given relevant testimony. (See *People* v. *Vatelli*, 15 Cal.App.3d 54, 58-59.) And Faretta's own testimony proves that Cunningham could not be located:

"Q You have maintained contact with that gentleman since you have been incarcerated; isn't that correct? A Charles Cunningham? Q Yes. A No. His mother is very interested in knowing where he is at. I have maintained contact with her. Q You don't know where Charles is? A I don't. Q Have you made any efforts to find him? A Previous to a competency hearing and my subsequent termination, you know, of defendant's representative for defendants, I had subpoenaed Charles Cunningham to the County for an interview, and I called his mother several times. I have tried to contact him, and I asked [defense counsel] to endeavor to contact him, and all this has proved fruitless."

5. *Prosecutorial Misconduct.*

Faretta testified that after his arrest he called the hotel managers and told them to find the pink slip and give it to the police. On cross-examination the prosecutor asked Faretta why he did not tell that to the district attorney before trial. The court sustained an objection to that question, denied a motion for mistrial, and admonished the jury to disregard the question.

The prosecutor erred in questioning Faretta about his failure to make exculpatory statements before trial. (*People* v. *Reese*, 220 Cal.App.2d 143, 146.) However, in light of the overwhelming evidence of guilt, the court's specific prompt admonition to the jury to disregard the question, and the court's general instruction to the jury that questions are not evidence, we are convinced beyond a reasonable doubt that the error was harmless. (*People* v. *Crawford*, 253 Cal.App.2d 524, 536; *Chapman* v. *California*, 386 U.S. 18, 24.)

6. *Limited Use of Prior Offenses.*

The information alleged that Faretta had four prior felony convictions. Faretta denied the allegations. The prosecution presented evidence to prove the prior convictions, and the jury found the allegations to be true. Faretta contends the court should have limited the extent of the prosecution's evidence to prove the prior convictions and should have instructed the jury that the evidence could not be considered proof of Faretta's criminal propensities.

This contention, too, is without merit. Because Faretta did not object to admission of evidence to prove the prior convictions, we need not consider the contention on appeal. (*People* v. *Johnson*, 5 Cal.App.3d 851, 863.) Moreover, the prosecution is not limited to any particular type of evidence to prove prior convictions. (*People* v. *Hill*, 67 Cal.2d 105, 122.) In any event, the limited use of evidence of prior convictions was adequately explained to the jury in this instruction:

". . .

"In this case, you must first decide the question of whether defendant is guilty of the offense charged and your consideration of that question must not be influenced by the allegation of the alleged prior conviction[s].

"If you find the defendant not guilty as to the offense charged, it will not be necessary to determine whether the allegation[s] of the prior conviction[s] [are] true. . . ."

The judgment is affirmed.

NOT FOR PUBLICATION.

/s/ Fleming
J.

We concur:

/s/ Roth
P.J

/s/ Compton
J.

IN THE COURT OF APPEAL
SECOND APPELLATE DISTRICT
STATE OF CALIFORNIA

No. 22722

S. C. No. A 012 485

THE PEOPLE, ETC., PLAINTIFF AND RESPONDENT

vs.

ANTHONY PASQUALL FARETTA,
DEFENDANT AND APPELLANT

JUDGMENT

ON APPEAL FROM THE SUPERIOR COURT IN AND FOR THE COUNTY OF LOS ANGELES

The above-entitled cause having been fully argued, submitted and taken under advisement,

IT IS ORDERED, ADJUDGED AND DECREED by the Court that the judgment is affirmed.

I, CLAY ROBBINS, JR., Clerk of the Court of Appeal, Second Appellate District, State of California, do hereby certify that the foregoing is a true copy of an original judgment entered on June 26, 1973, and now remaining of record in my office.

Dated: Aug. 27, 1973

CLAY ROBBINS, JR.
Clerk

By /s/ [Illegible]
Deputy

Order Due August 24, 1973

ORDER DENYING HEARING
AFTER JUDGMENT BY THE COURT OF APPEAL
2nd District, Division 2, Crim. No. 22722

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

IN BANK

PEOPLE

v.

FARETTA

Appellant's petition for hearing DENIED.

[Filed Aug. 22, 1973, Supreme Court,
G. E. Bishel, Clerk]

SULLIVAN
Acting Chief Justice

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

No. A012485

DEPARTMENT SOUTH "J"
HON. CARROLL M. DUNNUM, JUDGE

PEOPLE OF THE STATE OF CALIFORNIA, PLAINTIFF

vs.

ANTHONY PASQUALL FARETTA, DEFENDANT

REPORTER'S TRANSCRIPT OF APPEAL
August 2, 3, 4 & 7, 1972

APPEARANCES:

For the People:

JOSEPH J. BUSCH, JR., District Attorney
By: GEORGE S. ZUGSMITH and
ROBERT BERGER
600 Hall of Justice
Los Angeles, California 90012

For the Defendant:

RICHARD S. BUCKLEY, Public Defender
By: ARNOLD LIEMAN
402 Hall of Justice
Los Angeles, California 90012

Y. Porter, CSR
S. Boren, CSR
H. Mewes, CSR
Official Reporters
415 West Ocean Boulevard
Long Beach, California 90802

[5] LONG BEACH, CALIFORNIA, THURSDAY, JUNE 22, 1972, 9:29 A.M.

—oOo—

DEPARTMENT SOUTH "J"
HON. ELSWORTH M. BEAM, JUDGE

—oOo—

THE COURT: Let's call Anthony Pasquall Faretta.

MR. BERGER: People are ready.

THE COURT: Mr. Faretta, you moved the Court yesterday for permission to represent yourself and to relieve the Public Defender that had previously been appointed. I think you were supplied with a form that you were requested to fill out.

Have you had an opportunity to do so?

THE DEFENDANT: Yes, your Honor.

I have a document entitled, "Petition to Proceed in Propria Persona."

THE COURT: All right. Let the record show that defendant has handed to the bailiff and the bailiff has handed to the Court the document. The Court will now take a look at it.

Mr. Faretta, have you represented yourself in any other case?

THE DEFENDANT: Yes, your Honor.

THE COURT: Which case was that?

THE DEFENDANT: In 1970, your Honor, I represented myself in violation of 11910, Health and Safety Code, and 487, Penal Code.

[6] THE COURT: How did you do?

THE DEFENDANT: The 487 was dismissed, your Honor. County Jail disposition was rendered on dangerous drug offense.

THE COURT: What did you do?

Did you plea bargain in some way or were you found guilty, or what?

THE DEFENDANT: It was a plea bargain, your Honor.

THE COURT: And who bargained that for you? You did it yourself?

THE DEFENDANT: It was, yes, your Honor, and Robert Sills was the prosecuting attorney.

THE COURT: Sills, who is the District Attorney in here?

THE DEFENDANT: Yes, sir.

THE COURT: Outside of working out a deal for yourself, have you had any other court experience?

THE DEFENDANT: Well, during this time, your Honor, I filed numerous petitions. A petition to strike the prior, a petition of pretrial discovery, habeas corpus.

THE COURT: How much education have you had?

THE DEFENDANT: Well, I completed high school in the Navy, your Honor, and formally, before I enlisted in the Navy, I attended the 11th grade.

THE COURT: Tell me why you think you can do a better job defending yourself rather than somebody who has had some experience in these matters.

THE DEFENDANT: Your Honor, I am very aware that the Public Defender's Office can give you equal representation, no doubt, but I also am considering the fact that the [7] Public Defender's office is very loaded down with its, you know, a heavy case load. And given the opportunity to research my case, I can devote all the time I am in custody, being that I can't post the bail as it stands now, to my case. And I feel that, you know, I can establish the proper defense.

THE COURT: It has been my experience with pro pers that they get so busy and bogged down in making motions that they forget the basic purpose of the lawsuit and that is to win it in trial.

THE DEFENDANT: I see, your Honor.

THE COURT: They make all sorts of motions, work like the dickens, do all sorts of reading, but they seem to miss the basic purpose of what the trial is about, and that is to win it. Or if you can't win it, get a reduced sentence or do something. That has been my experience with practically every one of them. Sure, they got a lot of time. Sure, they file a lot of petitions. Yes, most of them look quite neat and legible.

But they completely neglect to consider the problem of trying the lawsuit and winning it in a trial court. The matter of evidence, direct examination, cross examination, presentation of evidence, how to do it and how to do it effectively. They overlook the fact that every time they get up in front of that jury, the jury is looking at them. Any slip, any misstatement, any strange twitch of the eye, any grimace, everything they do, the jury can see.

And, in effect, that is why pro pers, aside from the fact that they don't have the experience, get convicted many, [8] many more times than people that are represented by lawyers. No question in my mind about it. I have seen it in operation too many times. I have seen more people who represent themselves convict themselves, where if they just sat down and let somebody who knew what they were doing, do it, could well have won the lawsuit.

Just because you are going to be in jail and you have a lot of time to think up motions, to do a lot of research, doesn't mean you are going to be able to present a case in a trial court.

THE DEFENDANT: Your Honor—

THE COURT: Furthermore, there is a lot of difference between appellate practice where you can draw up petitions and make arguments and so on than trying a case. There are a lot of lawyers who are very good. They have a lot of experience in many fields and a lot of education, but they aren't any good to try a lawsuit because they haven't been in trial yet.

You have never really tried a case, have you?

THE DEFENDANT: No, your Honor. I have submitted a 1538.5 motion to the Court and when it was heard by the Court on that, also a 995 motion.

Your Honor, aside from being enamored by the novel concepts of the law, my purpose here is, essentially is to deal with this case with all expediency. I feel that, you know, the evidence that has been misconstrued and I don't want to be in jail, believe me, far less than the Public Defender wishes to see me there.

[9] And as far as the motion and the research goes, of course, this will be essential in establishing a defense. But my main objective is to dispose of the matter as promptly as I possibly can.

THE COURT: That isn't the point of disposing of the matter as prompt as you can. The point is whether you know what you are doing when you give up your right to be represented by an attorney.

THE DEFENDANT: Your Honor, I have told the Court on the occasions prior to this day that I, a layman to the law, an indigent, and I don't claim to be actually competent of defending myself, but I feel that with the Public Defender's case load and with the time I would have to reserch the cases, and with my knowledge of the case and perhaps some conflicting evidence that might make me incriminated, I feel that I could present adequate defense.

THE COURT: Do you think you could put on evidence in a more effective way than a lawyer can?

THE DEFENDANT: Not more effect, your Honor, but I feel that I could research the case to the extent to where I can find a case that parallels mine, knowing my case as it stands now.

THE COURT: Everybody thinks their case is unique and different.

What are you charged with?

THE DEFENDANT: 487, your Honor, .3.

THE COURT: What is that?

THE DEFENDANT: Grand Theft Auto.

[10] THE COURT: What is that?

THE DEFENDANT: A felony, your Honor.

THE COURT: I know, but what is the charge?

THE DEFENDANT: 487.3 of the Penal Code, Grand Theft Auto.

THE COURT: And what research do you think a lawyer is going to have to do in that? You have a lawyer who has, heaven only knows, how many cases he has tried of that kind.

That is the whole point I am making. You can spend a lot of time researching up there in the County Jail, and maybe it helps the time go faster, but like most pro

pers, it sounds to me like you are going to do all your research and lots of legal work and overlook the whole purpose of the lawsuit, really. Win it. Get the evidence. Convince the jury, at least convince them that the People don't have a case beyond a reasonable doubt, "You haven't proved it beyond a reasonable doubt."

Have you got any witnesses?

THE DEFENDANT: Yes, your Honor.

THE COURT: How are you going to get hold of them?

THE DEFENDANT: Well, your Honor, I had hoped the Court would grant me access to the law library and I can reach most of them by telephone. I did plan on having a legal runner, who is competent of doing some investigation groundwork.

THE COURT: I will take the matter under submission. My inclination is to let you—I am just telling you this—I think you are making a mistake. I haven't made my ruling yet. I am just warning you right now, I am going to give you a chance to think about it, too. There is no question in my mind that [11] you are making a mistake.

And, second, when you come in here and you try this lawsuit, you are going to be treated like a lawyer. You aren't going to be treated like a layman. You are going to be treated like a lawyer. And if you don't know your way around, that's too bad.

THE DEFENDANT: I see, your Honor.

THE COURT: You are going to follow the procedure. You are going to have to ask the questions right. If there is an objection to the form of the question and it is properly taken, it is going to be sustained. We are going to treat you like a gentleman. We are going to respect you. We are going to give you every chance, but you are going to play with the same ground rules that anybody plays. And you don't know those ground rules. You wouldn't know those ground rules any more than any other lawyer will know those ground rules until he gets out and tries a lot of cases. And you haven't done it.

I will take the matter under submission. You think it over.

My inclination is to let you have it. And I just can't understand people who try to do their own work in serious matters like this. It is one thing to paint your kitchen and another thing to try your own lawsuit.

We will take it up later.

THE DEFENDANT: Thank you, your Honor.

(Recess.)

(1:40 o'clock p.m.)

THE COURT: People versus Anthony Pasquall Faretta.

[12] Mr. Faretta, you have indicated to the Court you want to act as your own attorney and you do not want to be represented by counsel in this case; is that correct?

THE DEFENDANT: Yes, your Honor.

THE COURT: Do you understand that you have a constitutional right to a lawyer and the Court will appoint one for you, if you do not have the money to employ an attorney?

THE DEFENDANT: I do, your Honor.

THE COURT: Do you understand, in the Court's opinion you are making a very serious mistake by asking this Court to permit you to act as your own lawyer?

THE DEFENDANT: Yes, I understand your opinion, your Honor.

THE COURT: Do you understand that you are going to go by the same ground rules as any other lawyer?

THE DEFENDANT: Yes.

THE COURT: Do you understand that as far as pro per privileges are concerned, they are going to be as per Policy Memorandum of the Los Angeles Superior Court?

THE DEFENDANT: Yes, I understand that's true, your Honor.

THE COURT: And I have observed and I believe that you can read and write English, is that correct?

THE DEFENDANT: Yes, your Honor.

THE COURT: You are still desirous of doing it yourself?

THE DEFENDANT: Yes, your Honor.

THE COURT: All right. The Court is going to make a preliminary ruling in this case to the following effect:

The Court finds that the defendant has demonstrated in the courtroom, both orally and in writing, a [13] capacity to make an intelligent waiver of counsel;

The Court further finds that defendant understands that he is entitled to have a lawyer appointed to represent him and that he has made an intelligent waiver of that right.

I therefore accept the defendant's waiver of his right to counsel and grant him the right to proceed in propria persona. The rights given to the defendant while incarcerated in the Los Angeles County Jail are those set forth in Superior Court Policy Memorandum in re: Pro Per Privileges.

The Court, however, specifically reserves the right, as this matter proceeds to trial, to continually evaluate the capacity and the ability of this defendant to act as his own attorney, with the clear understanding that if at any time it becomes apparent to the Court that the defendant cannot act as his own attorney, his pro per status will be revoked and an attorney will be appointed to represent him.

I call your attention to the notice requirements that are set forth in the various code sections with respect to motions, and I am going to require you to follow them. Specifically, I am going to require you to notice all motions ten days in advance of this hearing and file them in the court and serve a copy on the District Attorney. I am going to require specifically that all pretrial motions be noticed for hearing at least ten days prior to the date set for the trial time.

THE DEFENDANT: Yes, your Honor.

THE COURT: I don't expect you to come in with a large [14] group of motions on the day of the trial that should have been noticed and heard at least ten days prior thereto, because I am not going to consider them.

Do you understand?

THE DEFENDANT: Yes, your Honor.

THE COURT: Now, have you as yet received a copy of the preliminary transcript and the Information from the Public Defender?

THE DEFENDANT: No, I haven't, your Honor.

THE COURT: All right.

Does anyone know where the Public Defender is that was on this case?

MR. BERGER: That is Mr. Lieman's case.

MR. PECK: I assume Mr. Lieman is in his office, your Honor. Perhaps the Clerk can call up there.

THE COURT: Here he is now.

Mr. Lieman, do you have the copy of the preliminary transcript and the copy of the Information that you can deliver to the defendant at this time?

MR. LIEMAN: I will have to go to my office and get it, your Honor. I shall do that.

THE COURT: All right.

If you will get it and deliver it to him. We will have to bring the defendant out later so that the record will show that it has been received.

MR. LIEMAN: Your Honor, it will take me about two minutes to get my transcript.

THE DEFENDANT: Your Honor?

[15] THE COURT: Yes.

THE DEFENDANT: If I might get a date set for a pretrial discovery motion; and, also, I would like to again be heard on the subject of bail reduction.

THE COURT: I will hear you on the subject of the bail motion very briefly now. I will give you about five minutes. If it is going to take longer than that, if you run out of time, I will have to hear it later.

Go ahead.

THE DEFENDANT: I will try to be as brief as possible, your Honor.

At the time I was arrested, I was an outpatient at the Harbor General Hospital. And I am now receiving treatments at the County Jail. But I don't know, the inadequacies of the County facilities, but my condition hasn't improved any.

Now, I have an outpatient card for the Harbor General Hospital. And I was also going to El Cerritos Hospital for dental work.

I have been staying in Long Beach for eight years, your Honor, and I have never failed to make a court appearance. As you can see, on the O.R. application, I have had numerous occasions before, when I possibly could have failed to make a court appearance.

Mr. Alemon spoke, I believe, and he will try to help me to use most of my time on the street constructively with the Citizen's Rehabilitation Program. I don't know to what depth he spoke to you on the subject but I am very interested in becoming more involved in Mr. Alemon's program.

[16] Presently $2000 bail is a little bit beyond my means, quite a lot beyond my means. At the time I was arrested, I was working as a meat cutter, journeyman meat cutter and making a sum of money that would enable me to hire an attorney, private attorney, which I would be desirous to do, your Honor.

If you could consider the matter of a bail reduction and possibly to $500, I am certain that I could now raise this sum of money and post bail.

I have been staying in the Long Beach area or in Orange County near Mr. Alemon's. Mr. Alemon has indicated to me that he may be able to find some sort of temporary work until the union can get me back to work as a butcher. I have worked for Max's Quality Meats, and you see on that O.R. application, but it was just a union job that they had sent me out for a day. But he did indicate that he might be able to take on permanent help.

At any rate, your Honor, I would be endeavoring to find permanent work while I was out on bail and to hire a private attorney.

I would ask the Court to consider $500, since I feel that this sum is within reason.

THE COURT: Motion is denied.

One other point I want to make and then we will let you go, say, within the next 30 days or so, you decide to request the Court to be relieved of acting as

your own attorney, I will entertain that motion and I will grant it and I will appoint the Public Defender again. But after that time, especially at the time of trial, if you come up and you say, [17] "Well, I have thought it all over and I have decided I would rather have a lawyer," it is too late. I am telling you right now I am going to deny it.

Do you understand?

THE DEFENDANT: Yes, your Honor. I appreciate your consideration.

MR. LIEMAN: Your Honor, I have a copy of the preliminary hearing transcript and a copy of the Information; I will turn it over to Mr. Faretta.

THE COURT: Do you acknowledge receipt of the copy of the transcript of the preliminary hearing?

MR. LIEMAN: I will ask him to sign a receipt.

THE COURT: Very well.

MR. LIEMAN: Your Honor, I came in at the tail end of this. Are we being relieved in this matter?

THE COURT: Yes, as soon as you deliver all the documents.

I am not going to wait for him to sign the receipt.

What else, how about a copy of the Information?

MR. LIEMAN: It is in the transcript, contained in the copy of the preliminary transcript, your Honor.

THE COURT: Do you acknowledge receiving a copy of the Information, Mr. Faretta?

Do you acknowledge receiving a copy of it?

THE DEFENDANT: Yes, your Honor.

THE COURT: Now, do you have any other documents to deliver?

MR. LIEMAN: No, your Honor, nothing pertaining to this case.

[18] THE COURT: Very well. The Public Defender is relieved.

THE DEFENDANT: Your Honor, at this time I would like to make the Court aware that I am an indigent and that I am sort of financially disabled now, but if the Court would be so graceful as to provide some legal paper, some pencils and perhaps a folder to get the case started, I could then provide my own supplies.

THE COURT: You are referred to the Pro Per Policy Memorandum. You may proceed under that.

The Clerk is ordered to file the defendant's petition to proceed in propria persona.

THE BAILIFF: Do we have a trial date?

MR. BERGER: Yes. It was August 2nd.

THE COURT: The trial date is August 2nd at 9:00 a.m. in this department.

THE DEFENDANT: May I have a date set for motion for pretrial discovery, your Honor?

THE COURT: All right. Why don't you put it in writing and give us some idea what it is all about.

THE DEFENDANT: Well, I would like a copy of the complaint, felony, the complaint that was issued by the plaintiff and also arrest report and—

THE COURT: That is a discovery motion. Put it in writing and send it down. Give everybody ten days notice.

I am just telling you right now, follow the procedures. I am a judge. I am not a lawyer and I don't give legal advice. I don't see how a judge can give both sides a fair trial on the one hand and act as a lawyer on the other.

[19] MR. BERGER: Your Honor, the Public Defender has already been furnished with copies of the complaint, the police report, and various other documents.

MR. LIEMAN: Excuse me, your Honor. I realize in looking through the file, we do have a copy of the police report; and I will be glad to turn it over to the defendant at this time.

THE COURT: Very well.

MR. BERGER: Let's put in the record what you are giving him so that we won't ask for it again.

MR. LIEMAN: I am handing Mr. Faretta a copy of the police report, which contains some eight pages and also a copy of the O.R. report, which recommended that defendant be denied O.R. release. I am giving it to him at this time.

Those are all of the records that I have pertaining to this case, your Honor.

MR. BERGER: No copy of the complaint in your files?

MR. LIEMAN: I am sorry. There is a copy of the complaint also. That is all I have.

THE COURT: Mr. Faretta, do you acknowledge receipt of the documents mentioned by the Public Defender?

THE DEFENDANT: Yes, your Honor, I do.

THE COURT: Very well. If you have anything further, you can notice it and we will take care of it.

THE DEFENDANT: Your Honor, the defense would request a copy of the transcript of this particular hearing.

THE COURT: Motion denied.

THE DEFENDANT: Thank you, your Honor.

(The matter was continued for further proceedings as afore indicated.)

[20] LONG BEACH, CALIFORNIA,
THURSDAY, JULY 13, 1972, 9:40 A.M.

—oOo—

THE COURT: In the Faretta matter, I brought you back down here to do some reconsideration as to whether or not you should continue to represent yourself.

How have you been getting along on your research?

THE DEFENDANT: Not bad, your Honor.

Last night I put in the mail a 995 motion and it should be with the Clerk within the next day or two.

THE COURT: Have you been preparing yourself for the intricacies of the trial of the matter?

THE DEFENDANT: Well, your Honor, I was hoping that the case could possibly be disposed of on the 995.

Mrs. Ayers informed me yesterday that it was the Court's policy to hear the pretrial motions at the time of trial. If possible, your Honor, I would like a date set as soon as the Court deems adequate after they receive the motion, sometime before trial.

THE COURT: Let's see how you have been doing on your research.

How many exceptions are there to the hearsay rule?

THE DEFENDANT: Well, the hearsay rule would, I guess, be called the best evidence rule, your Honor. And there are several exceptions in case law, but in actual statutory law, I don't feel there is none.

THE COURT: What are the challenges to the jury for cause?

THE DEFENDANT: Well, there is twelve peremptory [21] challenges.

THE COURT: And how many for cause?

THE DEFENDANT: Well, as many as the Court deems valid.

THE COURT: And what are they? What are the grounds for challenging a juror for cause?

THE DEFENDANT: Well, numerous grounds to challenge a witness—I mean, a juror, your Honor, one be-

ing the juror is perhaps suffered, was a victim of the same type of offense, might be prejudiced toward the defendant. Any substantial ground that might make the juror prejudice toward the defendant.

THE COURT: Anything else?

THE DEFENDANT: Well, a relative perhaps of the victim.

THE COURT: Have you taken a look at that code section to see what it is?

THE DEFENDANT: Challenge a juror?

THE COURT: Yes.

THE DEFENDANT: Yes, your Honor. I have done—

THE COURT: What is the code section?

THE DEFENDANT: On voir diring a jury, your Honor?

THE COURT: Yes.

THE DEFENDANT: I am not aware of the section right offhand.

THE COURT: What code is it in?

THE DEFENDANT: Well, the research I have done on challenging would be in Witkins Jurisprudence.

THE COURT: Have you looked at any of the codes to see where these various things are taken up?

[22] THE DEFENDANT: No, your Honor, I haven't.

THE COURT: Have you looked in any of the California Codes with reference to trial procedure?

THE DEFENDANT: Yes, your Honor.

THE COURT: What codes?

THE DEFENDANT: I have done extensive research in the Penal Code, your Honor, and the Civil Code.

THE COURT: If you have done extensive research into it, then tell me about it.

THE DEFENDANT: On empaneling a jury, your Honor?

THE COURT: Yes.

THE DEFENDANT: Well, the District Attorney and the defendant, defense counsel, has both the right to 12 peremptory challenges of a jury. These 12 challenges are undisputable. Any reason that the defense or prosecution should feel that a juror would be inade-

quate to try the case or to rule on a case, they may then discharge that juror.

But if there is a valid challenge due to grounds of prejudice or some other grounds, that these aren't considered in the 12 peremptory challenges. There are numerous and the defendant, the defense and the prosecution both have the right to make any inquiry to the jury as to their feelings toward the case.

THE COURT: The Court having observed the conduct and the demeanor of the defendant, in addition to what he said, does not believe that the defendant has made an intelligent and knowing waiver of his constitutional right to be represented by an attorney. Also taking into consideration the recent case [23] of People versus Sharp, where the defendant apparently does not have a constitutional right to represent himself, the Court finds that the ends of justice and requirements of due process require that the prior order permitting the defendant to represent himself in pro per should be and is hereby revoked. That privilege is terminated.

The Public Defender is appointed to represent the defendant in this case.

The District Attorney is ordered to deliver to the Public Defender's Office forthwith a copy of the Information in this case.

The defendant is ordered to deliver to the Public Defender a copy of the preliminary transcript in this case, and in the event the defendant neglects, fails, or refuses to deliver a copy of the transcript of the preliminary hearing in this case, the Public Defender may make the request of the Court and the Court will order an additional copy of the transcript of the preliminary hearing.

THE DEFENDANT: Your Honor—

THE COURT: Anything further?

MR. BERGER: Might I just say for the record, your Honor, that it is my understanding that a copy of the Information has been furnished to the defendant already. Perhaps that might be made part of the order that the Court has directed to the defendant.

THE COURT: That was a part of the order, and I hereby direct you and order you to deliver the copy of

the transcript of the preliminary hearing heretofore given to you by the [24] Public Defender, I order you to return it to the Public Defender.

THE DEFENDANT: Your Honor, if I might again be heard on the matter. According to the Sixth Amendment, a defendant has the right to assistance of counsel of his choice, and I believe those are the words that are used, when I say "assistance."

Now, if the Court would find it appropriate that defendant act as co-counsel in this matter, I would then move that the Court would make that order.

THE COURT: Defendant's motion to act as co-counsel, that is my understanding of your motion, is denied.

THE DEFENDANT: Your Honor. one more matter, then. Being that the defendant, the defendant discharged the Public Defender's Office in this matter, I feel that the Public Defender would be biased and prejudiced toward the defendant's case and would therefore, under Section 987(b) of the Penal Code, move that the Court appoint him an attorney.

THE COURT: Defendant's motion is denied.

THE DEFENDANT: Your Honor, I would then ask the Court if I might have a transcript of this hearing.

THE COURT: You make a showing through your attorney, and it will be given to you, but you don't represent yourself any more.

Anything else?

THE DEFENDANT: If this is the order of the Court, I understand, your Honor.

THE COURT: All right.

MR. BERGER: The trial date remains at August 2nd, your [25] Honor?

THE COURT: Yes.

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[26] LONG BEACH, CALIFORNIA, WEDNESDAY, AUGUST 2, 1972, 2:00 P.M.

DEPARTMENT SOUTH "J"
HON. CARROLL M. DUNNUM, JUDGE

(The following proceedings were had in open court out of the presence of the prospective jurors:)

THE COURT: People versus Anthony Pasquall Faretta.

MR. ZUGSMITH: People are ready.

MR. LIEMAN: Ready for the Defendant.

THE COURT: The record will show that the Defendant and both attorneys are present at the counsel table. The matter is before the Court for hearing of Defendant's motion for dismissal under the provisions of 995 of the Penal Code.

You may argue your motion, counsel. The Court has read and considered the transcript of the preliminary hearing in its entirety.

MR. LIEMAN: Yes, your Honor. The Defendant would ask the Court to also consider the case of People versus Rogers, 4 Ca Ap 531, which was cited in our points and authorities.

In this particular matter the Defendant was held to answer based upon the testimony of the owner of the car, Mrs. Telford, to the effect that, as far as she knew, her husband had reported the car stolen.

However, there was no testimony to show Mr. Telford's whereabouts, if he had granted anyone permission to move the car or given anyone permission to move it whatsoever.

In the Rogers case the court in that case in reversing the conviction indicated that they would have to show [27] that the driver of the car lacked consent of the owner, and in that case, also, one party testified and not the other one.

I would submit that this case is exactly in point with People versus Rogers and ask the Court to dismiss it on that basis.

MR. ZUGSMITH: May I respond, your Honor?

THE COURT: Yes.

MR. ZUGSMITH: People versus Rogers is a case in which a submission on the transcript occurred subsequent to the preliminary hearing.

In the matter that is presently before the Court there has been no submission on the transcript. In People versus Rogers the reversal was predicated upon the court trial that grew out of the submission on the transcript.

Here we have a preliminary hearing with the wife of the owner testifying at the preliminary hearing, creating a strong suspicion respecting the element of lack of consent and no knowledge or permission granted to the Defendant and no indication that anyone in the immediate family of the owner knew the Defendant.

I submit, your Honor, that based upon the transcript, as it stands before the Court, the Court did have a strong suspicion both that the Defendant had committed the crime and that the crime had been committed.

We submit it, your Honor.

THE COURT: We are dealing with a question of fact. The Magistrate did find that there was sufficient evidence to bind the Defendant over for trial. The Court agrees with the [28] Magistrate.

The motion is denied. This is a jury trial?

MR. LIEMAN: That is correct, your Honor.

THE COURT: Call for a jury, please.

THE DEFENDANT: Your Honor—

MR. ZUGSMITH: Your Honor, prior to the panel's arrival the People would move to amend the information. I have discussed this matter prior to today with Mr. Lieman. We would like to amend the information to allege the priors.

THE COURT: You have been advised heretofore of the intention of the People to amend to allege priors?

MR. LIEMAN: That's correct, your Honor.

THE COURT: The motion is granted. You may amend.

MR. ZUGSMITH: Thank you, your Honor. At this time your Honor, I am handing the original copy of the amended information to the clerk. The People did give the

Defendant's copy yesterday to the Defense attorney, Mr. Lieman.

Is that correct, Mr. Lieman?

MR. LIEMAN: That is true.

MR. ZUGSMITH: Mr. Faretta, at this time the People seek to and have been granted the opportunity to amend the information to allege prior convictions against you. There are several prior convictions in the amendment.

However, the People at this time would move to amend the information to charge that on the date of November 30th, 1965 in the Superior Court of the State of California, for the County of Los Angeles, you were convicted of the crime of violation of Section 11530 of the Health and Safety Code, [29] a felony.

In addition, to that, Mr. Faretta, on the date of May 5th, 1967, in the Superior Court of the State of California, for the County of Orange, you were convicted of the crime of violation of Section 11530 of the Health and Safety Code, a felony.

In addition to that Mr. Faretta, on the date of March 25th, 1970, in the Superior Court of the State of California for the County of Los Angeles, you were convicted of the crimes of violation of Section 487.3 of the Penal Code and Section 10851 of the California Vehicle Code, both felonies.

MR. LIEMAN: Excuse me. Are we disregarding the first alleged prior?

MR. ZUGSMITH: Yes.

MR. LIEMAN: Thank you.

MR. ZUGSMITH: To those prior allegations, Mr. Faretta, do you admit or deny those?

THE DEFENDANT: I deny them on their face.

THE COURT: Mr. Faretta, you realize that by your denial the Court must, when reading the information to the jury, advise the jury of these alleged priors and your denial thereof?

THE DEFENDANT: Your Honor, the Defendant at this time denies the priors on their face for the Court to determine the nature of the crimes as they were deemed here as felonies. This is the basis of the Defendant's denial.

THE COURT: You did not answer my question. I merely asked you if you realize that by your denial of these priors—and if they are not proper priors you should deny them.

[30] But the question I am directing to you is: Do you realize that by your denial of the priors that I must advise the jury of the alleged priors and your denial thereof, because they are the ones that are going to make the finding on the priors?

THE DEFENDANT: Yes, your Honor.

THE COURT: Very well.

THE DEFENDANT: Your Honor—

THE COURT: Now, what is the situation with the first alleged prior paragraph?

MR. ZUGSMITH: I have examined the official documentation respecting that prior, your Honor, and I have made a determination that apparently that prior was handled at the misdemeanor level.

THE COURT: So that will not be read then?

MR. ZUGSMITH: That's right.

THE COURT: Very well.

MR. ZUGSMITH: With respect to the November 30th, 1965 prior, a violation of section 11530, your Honor, I had one of our District Attorney investigators go downtown and retrieve what was supposed to be the official file.

I have gotten the file back and apparently it is not the correct file. There is an error in clerical work somewhere.

I do believe the Defendant did suffer that conviction in 1965. I am attempting to get the official court file. However, I do not have it at this time.

MR. LIEMAN: I would hesitate to have that read to the [31] jury with the possibility that it might very well be a misdemeanor.

THE COURT: Do you wish to withdraw that alleged prior?

MR. ZUGSMITH: Well, your Honor, in 1965 a conviction of 11530 was a straight felony, as I understand it. I don't think it was a misdemeanor at that time or could be a misdemeanor.

THE COURT: Very well. We will await the arrival of the jury for the commencement of the trial.

THE DEFENDANT: Your Honor, if the Defendant might be heard—

THE COURT: Speak through your attorney, please.

THE DEFENDANT: Well, your Honor, prior to, I believe it was, July 14th the Defendant was appearing in pro per, and I was brought to the court on a competency hearing in which the court found me incompetent, using as a basis People versus Sharp, which I believe is such a recent case that the Federal Reporter hasn't even—

THE COURT: I am very well aquainted with the Sharp case. I handled it.

THE DEFENDANT: Prior to the competency hearing the Public Defender had been dismissed, and I motioned at that time to Judge Beam that perhaps a conflict would arise out of this because the Public Defender was discharged and the same Public Defender was reappointed.

On that question of competency of Mr. Lieman—in fact, I am sure he is a very competent attorney, but I have talked to Mr. Lieman and in my opinion there is a definite conflict of interests here, and I would ask the Court, under Section 987 of the Penal Code, to appoint me a state appointed [32] counsel.

THE COURT: This matter has been handled by Judge Beam heretofore. I am not going to second guess Judge Beam.

Motion denied. Has the jury arrived? It looks like there are people out there.

THE BAILIFF: I will check, your Honor.

(The following proceedings were had in open court in the presence of the prospective jurors:)

THE COURT: People versus Anthony Pasquall Faretta. Both sides ready?

MR. ZUGSMITH: People are ready.

MR. LIEMAN: Defendant is ready.

THE COURT: Swear the panel, please.

THE CLERK: Will the prospective jurors rise, please, and raise your right hand?

You and each of you do solemnly swear that you will well and truly answer such questions as may be asked of you, touching upon your qualifications to act as trial jurors in the cause now pending before this court?

(The prospective jurors indicated in the affirmative.)

THE CLERK: As I call your name, would you step forward, please, to the bailiff.

Richard D. Koffroth, K-o-f-f-r-o-t-h.

Norman Rogers, R-o-g-e-r-s.

Mrs. Betty L. Johnston, J-o-h-n-s-t-o-n.

Mrs. Mildred M. Wynn, W-y-n-n.

[33] Mrs. Marie M. Taylor, T-a-y-l-o-r.

Isiah Ross, R-o-s-s.

Betty J. Snyder, S-n-y-d-e-r.

Mrs. Frances V. Smith, S-m-i-t-h.

Mrs. Lorraine G. Sundstrom, S-u-n-d-s-t-r-o-m.

Mrs. Helen C. Johnson, J-o-h-n-s-o-n.

Donald R. Jensen, J-e-n-s-e-n.

Thomas R. Thompson, Jr., T-h-o-m-p-s-o-n.

THE COURT: Good Afternoon, ladies and Gentlemen.

If those of you on the other side of the rail would listen to the voir dire examination as it is conducted, if, as and when you are called into the jury box, we may shorten proceedings by merely asking you if you have heard what has go on heretofore and if your answers to the questions that have been directed to the jurors in the box would be substantially the same as the answers heretofore given.

We have for trial this afternoon the case of the People of the State of California versus Anthony Pasquall Faretta. The information in this matter alleges that on or about May 21st, 1972, or between that date, May 21st, 1972, and May 22nd, 1972 the Defendant in the County of Los Angeles, State of California, did willfully, unlawfully, feloniously take a certain motor vehicle, to wit, an automobile then and there the personal property of one Dean H. Telford.

The Defendant has pleaded not guilty to the charge. The information also alleges that before the commission of the offense just stated to you that the Defendant,

Anthony Pasquall Faretta, under the name of Lawrence E. Ricchio, was on or about [34] the 30th day of November, 1965, in the Superior Court of the State of California, for the County of Los Angeles, convicted of the crime of violation of Section 11530 of the Health and Safety Code, a felony.

The information further alleges that before the the commission of the offense heretofore read to you that the Defendant, Anthony Pasquall Faretta, under the name of Anthony P. Faretta, was on or about the 5th day of May, 1967, in the Superior Court of the State of California, for the County of Orange, convicted of the crime of violation of Section 11530 of the Health and Safety Code, a felony.

The information further alleges that on or before the commission of the offense heretofore read to you that the Defendant, Anthony Pasquall Faretta, under the name of Anthony P. Faretta, was in the Superior Court of the State of California, for the County of Los Angeles, convicted of the crimes of violation of Section 487.3 of the Penal Code and Section 10851 of the Vehicle Code, both felonies.

To each of these alleged prior convictions the Defendant has denied the validity thereof.

(Voire dire of prospective jurors.)

THE COURT: Peremptory is with the People.

MR. ZUGSMITH: People accept the panel, your Honor.

THE COURT: Peremptory with the Defense.

MR. LIEMAN: The Defendant would accept the panel.

THE COURT: Swear the jury.

THE CLERK: Will the jurors in the box rise and raise your right hand.

[35] You and each of you do solemnly swear that you will well and truly try the cause now pending before this court and a true verdict render therein according to the evidence and the instructions of the court, so help you God?

(The jurors indicated in the affirmative.)

THE COURT: The balance of the jury panel may return to the jury assembly room. Thank you for coming in.

Opening statement for the People.

(Opening statement.)

THE COURT: Opening statement for the Defense.

MR. LIEMAN: May we reserve it, your Honor, at this time?

THE COURT: Very well. Ladies and gentlemen of the jury, it is your duty not to converse with or suffer yourselves to be addressed by any other persons on any subject of the trial, or to form or express an opinion thereon until the case is finally submitted to you.

May we have a stipulation that this admonition is deemed given at the beginning of each recess?

MR. LIEMAN: So stipulated.

THE COURT: Mr. Zugsmith?

MR. ZUGSMITH: So stipulated, your Honor.

THE COURT: May we have a further stipulation that all twelve jurors are present in the jury box and that the Defendant and both attorneys are present at the counsel table at the beginning of each session unless my attention is directed to some omission?

MR. ZUGSMITH: So stipulated for the People.

MR. LIEMAN: So stipulated for the Defendant.

[36] THE COURT: We will be in recess until ten o'clock tomorrow morning. Good night.

(At 4:30 p.m. an adjournment was taken until Thursday, August 3, 1972 at 10:00 a.m.)

[37] LONG BEACH, CALIFORNIA, THURSDAY, AUGUST 3, 1972, 11:00 A.M.

(The following proceedings were had in open court out of the presence of the jury:)

THE COURT: Do I understand that there is a motion in the Faretta case?

MR. LIEMAN: I would like to make a motion before the jury comes in.

THE COURT: All right. Keep the jury out. Bring Mr. Faretta in, please.

The record will show that the Defendant and both attorneys are present at the counsel table. The jurors are not in the courtroom.

I understand there is a motion in this case.

MR. LIEMAN: Your Honor, rather than a motion, Mr. Faretta has indicated to me that he was rather unhappy with the representation he has been receiving, and I suggested that if he is so unhappy that he make his complaints known to the Court and that he put it on the record prior to the jury being present.

As he asked yesterday, he requested that another attorney be appointed.

THE DEFENDANT. Your Honor, the main reason I have stated this conflict is that Judge Beam dismissed the Public Defenders Office, you know, being that I wasn't satisfied with the representation I was getting.

At that time I had appealed to the court under the 987 to appoint counsel. The Judge said this was impossible.

I then motioned that I be granted pro per status, [38] which he did grant. As the Court knows, later through the competency hearing I was denied the right to defend myself, and the Court reappointed Mr. Lieman.

Now, whether Mr. Lieman has any ill will about this or not, who am I to say?

But I feel that if it was myself in Mr. Lieman's position, I would suffer some embarrassment from this situation.

THE COURT: This is the second time now that you have raised this issue in two days. I have denied this motion yesterday on your part.

There was a hearing held on July 13, 1972 wherein Judge Beam did determine that you were not qualified to represent yourself.

I am not going to second guess Judge Beam in this regard. I know Mr. Lieman is a very qualified lawyer and, if you would cooperate with him, you will get good representation far over and beyond anything that you could do on your own behalf.

So the previous ruling of Judge Beam on July 13th and my ruling of yesterday are affirmed. I again deny the motion.

Bring the jury out, please.

(The following proceedings were had in open court in the presence of the jury:)

THE COURT: The record will show that all twelve jurors are present in the jury box. The Defendant and both attorneys are present at the counsel table.

I believe yesterday we had selected the jury, sworn [39] the jury, had opening statement by the People, and opening by the Defense was reserved.

First witness by the People.

MR. ZUGSMITH: Thank you, your Honor. People call Dean Tellford to the stand.

MR. LIEMAN: Your Honor, there would be a Defense motion to exclude any other prosecution witnesses that are in the courtroom.

THE COURT: All witnesses who intend to testify in this matter are requested to step out into the vestibule and are ordered not to converse one with the other concerning this case until after the conclusion of the trial.

The investigating officer and the Defendant may remain.

Are all witnesses out of the courtroom now?

MR. ZUGSMITH: Yes, your Honor, I believe so.

THE COURT: Mr. Lieman, are all of your witnesses out, too?

MR. LIEMAN: Yes, your Honor.

THE CLERK: Raise your right hand to take the oath.

You do solemnly swear that the testimony you may give in the cause now pending before this court shall be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

* * * *

[224] CROSS-EXAMINATION

BY MR. ZUGSMITH:

* * * *

[234] Q Let me ask you this: Mr. Faretta, at one time in the court of this case you were permitted by a Judge of the Superior Court to represent yourself; do you recall that?

[235] A Yes.

Q During that period of time you were in custody; is that correct?

A I was in custody and have been.

Q During that time in your participation and representing yourself you summoned me to the jail; isn't that correct?

A I summoned you to the jail?

Q Yes. Didn't you call for the District Attorney to come up?

A No.

Q Did you ever talk to a District Attorney in jail?

A I spoke to a District Attorney here on a court appearance on one occasion.

Q Did you ever talk to a District Attorney while you were in jail?

A If you consider my present state in jail, yes, I have talked to one.

Q I am talking about down on 4D. You remember that day on 4D, don't you, sir? Don't you remember that you asked to see a District Attorney or District Attorneys? You remember that, sir, don't you?

A Yes, I recall that situation.

Q And you remember that some District Attorneys came to see you; isn't that correct?

A Yes, I recall seeing you and—I recall seeing yourself, George Zugsmith, and Robert Berger.

Q At that time Mr. Berger told you, did he not, sir, that he was the Calendar Deputy for this particular court; is [236] that correct?

A Yes, I believe that is what he did say.

Q And he introduced me, didn't he?

A Yes, he did.

Q And he told you that I was one of the trial Deputies assigned to this court; isn't that correct?

A Assigned to my case, yes.

Q And then we had a conversation, Mr. Berger and yourself and me; is'nt that right?

A That's correct, yes.

Q At no time during that conversation did you ever mention what you just told this jury, did you?

MR. LIEMAN: I am going to object. I think that this is grounds for mistrial. Certainly if the Defendant is in pro per, he is representing himself. There is nothing wrong with that. The Defense attorneys talk to Defendants. I do it every day and Mr. Zugsmith does it every day in behalf of the District Attorney.

THE WITNESS: Your Honor, I would join in an objection.

MR. LIEMAN: I think that is an improper subject for cross-examination.

THE COURT: The Court will exclude it under 352 of the Evidence Code.

MR. ZUGSMITH: Thank you, your Honor.

MR. LIEMAN: I also made a motion for mistrial.

THE COURT: Denied. The jury is instructed to disregard the questions and answers concerning the meeting between the District Attorney and the Defendant while he was in custody here [237] in this building.

MR. ZUGSMITH: Thank you, your Honor. I will enter another area of cross-examination.

Q BY MR. ZUGSMITH: Mr. Faretta, at the time that you were stopped by Officer Edwards I think you indicated that you had been drinking prior to that time?

A Yes, I had been.

Q How much had you had to drink just prior to the time or prior to the time that Officer Edwards stopped you?

A Well, the hotel I stay in, you know, caters to alcoholics in particular, because it is more or less, well, half way or to keep people from backsliding, but it seems it has the adverse effect.

I drank about two fifths of wine.

Q Had you had any beer to drink that night?

A No.

Q Did you hear Officer Edwards testify that there were several empty beer cans in the car that you had been driving?

A Yes. I noticed. I didn't have a chance to clean the car out.

Q Do you know how those got in there?

A No, I don't.

Q Were those empty cans in the car when you allegedly purchased it?

A Yes, they were.

Q Did you feel that you were drunk at the time that Officer Edwards stopped you?

A If the Officer was going to testify that I wasn't [238] drunk, I certainly feel that I was not in fact drunk.

Q Were you in possession of your faculties?

A Yes.

* * * *

[283] LONG BEACH, CALIFORNIA, TUESDAY, SEPTEMBER 5, 1972

* * * *

[297] THE DEFENDANT: Yes, your Honor. I'd appeal to the grace of the Court at this time to post a bail on that appeal and make notice of motion. Now, Mr. Lieman advised me that he is already in the process of filing notice.

THE COURT: Let's handle one thing at a time.

Do you understand that unless your present lawyer [298] is going to file a Notice of Appeal for you, it is your duty to file your own Notice of Appeal, and this must be done within sixty days from today?

THE DEFENDANT: Yes.

THE COURT: Do you have any questions you want to ask me about your appellate rights?

THE DEFENDANT: I understand I have ten days to file notice.

THE COURT: No. You have sixty days within which to file your Notice of Appeal. That time starts to run from today.

Do you have any other questions concerning your appellate rights?

THE DEFENDANT: Concerning my appellate rights, no, your Honor, other than that question I posed in regards to the bail.

THE COURT: The reporter is ordered to have a transcript of these proceedings prepared, certified, and filed with the Clerk of this court.

Now, what was the item you just mentioned? Talk through Mr. Lieman.

MR. LIEMAN: Your Honor, we will file a Notice of Appeal on behalf of Mr. Faretta, and he has requested that the Court set bail on the appeal.

THE COURT: Well, in view of the defendant's record and the sentence of the Court—

MR. BERGER: May I be heard before the Court announces a figure?

[299] THE COURT: Yes.

MR. BERGER: As the Court knows, on felony matters, the right to bail is discretionary. The defendant has no absolute right to bail, and the Court may impose no bail, that is, not set a bail if the Court deems it appropriate.

I did not handle the trial, although I am familiar with the facts in the case having persued the District Attorney's file.

It appears to me, your Honor, that the evidence of guilt is overwhelming. It also appears—unless Mr. Lieman or the Court indicates to the contrary—that there was no apparent error in the trial.

I would therefore suggest to the Court that the chance of reversal is so minimal as to justify the setting of no bail in this case.

THE COURT: Well, that was what I was about to say.

MR. BERGER: Thank you, your Honor.

THE COURT: The motion for bail pending appeal is denied.

MR. LIEMAN: Your Honor, Mr. Faretta indicates that he would request the Court send him to Department 95 at this point for observation or diagnostic study.

THE COURT: The Court sees no grounds for such a motion. Denied.

THE DEFENDANT: Your Honor, if I might be heard on the matter briefly.

THE COURT: Well, talk through Mr. Lieman, please. You could say things that could be harmful to your position.

MR. LIEMAN: Your Honor, Mr. Faretta indicates that he [300] had had several convictions in the past for dangerous drugs and that he feels at the time of the arrest, there was some dangerous-drug involvement in this particular case which the Court just sentenced him on, and that was his reason for his desiring to be sent to Department 95.

THE COURT: Well, the Court sees no basis for such a referral.

Denied.

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SUPREME COURT OF THE UNITED STATES

No. 73-5772

ANTHONY PASQUALL FARETTA, PETITIONER

v.

CALIFORNIA

On petition for writ of Certiorari to the Court of Appeal of the State of California, Second Appellate District.

On consideration of the motion for leave to proceed herein *in forma pauperis* and of the petition for writ of certiorari, it is ordered by this Court that the motion to proceed *in forma pauperis* be, and the same is hereby, granted; and that the petition for writ of certiorari be, and the same is hereby, granted.

March 18, 1974

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